

STAFFORD COUNTY PLANNING COMMISSION MINUTES

December 15, 2010

The meeting of the Stafford County Planning Commission of Wednesday, December 15, 2010, was called to order at 6:37 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Fields, Rhodes, Hazard, Mitchell, Kirkman and Hiron

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Smith, Stinnette, Doolittle, Hess and Hornung

DECLARATIONS OF DISQUALIFICATION

Mr. Howard: First item on the agenda this evening is under unfinished business. Well, actually, are there any declarations of disqualification? I didn't think so but I should ask that. Okay, first item is Patriot Ridge Preliminary Subdivision Plan. Mr. Harvey, we'll hear from staff?

Mr. Harvey: Yes, Mr. Chairman. Natalie Doolittle will give an update to the Planning Commission.

UNFINISHED BUSINESS

1. SUB1000017; Patriot Ridge - Preliminary Subdivision Plan - A preliminary subdivision plan for 16 single family residential lots on private well and septic systems, zoned A-2, Rural Residential, consisting of 23.12 acres located on the west side of William and Mary Lane, approximately 1,200 feet south of Decatur Road on Assessor's Parcels 31-67 and 31-68 within the Griffis-Widewater Election District. **(Time Limit: December 29, 2010) (History - Deferred at October 6, 2010 Meeting to October 20, 2010 Meeting) (Deferred at October 20, 2010 Meeting to November 3, 2010 Meeting) (Deferred at November 3, 2010 Meeting to December 1, 2010 Meeting) (Deferred at December 1, 2010 Meeting to December 15, 2010 Meeting)**

Mrs. Doolittle: Good evening Mr. Chairman and members of the Commission. Item number one is the continuation of the December 1st meeting for the Patriot Ridge preliminary plan application. Mr. Tommy Thompson is here tonight and available to answer any questions, drainfield related questions, the Commission had at the last meeting. Also, Mr. Newport has requested deferral of this application to the January 5th meeting. He would also accept an extension to the time limit until the January 5th meeting. He is unable to be here tonight, however, staff is prepared to address the questions the Commission had from the last meeting.

Mr. Howard: This is mostly... the questions were Ms. Kirkman's and Ms. Kirkman is on her way. I'm not sure if one of my colleagues want to make a motion to defer to the January meeting in light of the fact that Ms. Kirkman is not here rather than trying to dispose of this without her here.

Mr. Fields: My suggestion, why don't we just pass this by until she arrives and we'll take it back up again.

Mr. Howard: Okay.

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Mr. Fields: We don't have anybody other than staff waiting, a whole phalanx of people waiting. I think she'll be here within minutes, I believe

Mr. Howard: Alright, so...

Mr. Harvey: The applicant's engineer is in the audience.

Mr. Fields: Okay.

Mr. Howard: Okay, so why don't we make it official though; someone make a motion to change the agenda and we can move item 1.

Mr. Fields: Okay, so moved Mr. Chairman.

Mr. Howard: Okay, is there a second?

Mrs. Hazard: Second.

Mr. Howard: Alright, and we'll table item 1 during this meeting. Well, we'll call the vote but that's... we're in discussion so we would table this until we dispose of items 2 and 3. So, all those in favor of the motion signify by saying aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed no? The motion carries 4 to 0 (Mr. Rhodes, Mr. Mitchell and Ms. Kirkman are absent). Okay, item 2, which is also in the Aquia Election District, which Mr. Mitchell represents is not here, and this is preliminary subdivision plan for sixteen single-family residential lots. It's Mount Hope Estates. I think a lot of the Commissioners here have some questions, so we can get started on that. And then if we get to a point where we are done with our questions, we can either table or see if there's an appetite to continue.

Mr. Harvey: Mr. Chairman, Mrs. Hornung will give an update to the Commission.

Mr. Howard: Thank you.

2. SUB1000107; Mount Hope Estates - Preliminary Subdivision Plan - A preliminary subdivision plan for 16 single family residential lots on private well and septic systems, zoned A-1, Agricultural consisting of 57.93 acres located at the end of Mount Hope Church Road, approximately 3,700 feet west of its intersection with Brooke Road on Assessor's Parcels 39-25 and 39-46 within the Aquia Election District. **(Time Limit: January 26, 2011) (History - Deferred at November 3, 2010 Meeting to December 1, 2010 Meeting) (Deferred at December 1, 2010 Meeting to December 15, 2010 Meeting)**

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Mrs. Hornung: Good evening Mr. Chairman, members of the Commission. In the... at the last meeting, the Commission had additional questions related to this project. And in the staff report, a number of them have been addressed. And then there was an additional email sent out which came from the engineer to address question number 8. Would you like me... what is the will of the Commission? Do you want to go through each one individually to answer them?

Mr. Howard: I think so, yeah.

Mr. Fields: Yeah, go ahead.

Mr. Howard: I would like that Mrs. Hornung. Thank you.

Mrs. Hornung: Okay. The first question for this evening is, is cell G operational, and a lot of these answers to these questions came directly from Andrew Mikel who is the Superintendent of the landfill for the R-Board. Cell G, which was on the graphics produced last time, which I also have them available if needed, on Exhibit 1 that showed the future landfill adjacent to Mount Hope, showed that the eighty acre expansion is not necessarily called cell G but is an eighty acre plot that will have cells numbering from cell F to cell O, for example, depending on the time when they come into service. And it depends on how the eighty acres would be divided in the future as to how the site is expanded. And this is all in the Phase 2 expansion of the landfill.

Mr. Howard: And when is that, when is Phase 2... when do they think the Phase 2 expansion will begin?

Mrs. Hornung: There was no particular timeline that I received on when those eighty acres would be operational. It's, I'm thinking, a twenty year... but I could be mistaken.

Mr. Howard: Is it reasonable to assume that cell F would go before cell G? So, in other words, even if the expansion were to take place twenty years from now, it's likely cell F would be the first cell... I don't know, that's why I'm asking the question.

Mrs. Hornung: That would make sense. When I was talking, or through email with Mr. Mikel, he was saying that as each cell becomes operational they'll be in sequence alphabetically.

Mr. Howard: Okay.

Mr. Fields: That is correct, from my time on the R-Board, that's how they do it. That's why they letter them in that way.

Mr. Howard: I would have thought so, thank you.

Mrs. Hornung: Question number 2 was how has technology of landfills changed in the last ten years in order to minimize environmental hazards and impacts. The Virginia Department of Environmental Quality, DEQ Waste Division, is the state agency responsible for enforcing waste management. The landfills are regulated... I believe it was subtitle D that was attached in the last staff report which were the state regulations that gave the description and the details of what is required for a landfill. Also, with the information given, with having the landfill regulations and practices in place, they essentially minimize or almost eliminate any negative environmental impacts. And the groundwater has many

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protections in place such as the double liners, leachate pumps... and leachate pumps that remove and treat the leachate at the wastewater plant or through a groundwater monitoring network. I guess I'll just continue unless there's any questions or clarification.

Mr. Howard: Yes, thank you. Are there any questions on items 1 or 2 from anyone? No? Okay. Thank you, Mrs. Hornung.

Mrs. Hornung: Okay. What is the elevation of the water table at the landfill and Mount Hope Estates? This question is difficult to answer with certainty. Hydrological investigations would be required to definitely answer these questions. And the levels at current operations, which are far from the future operations that would be closer to the property, they would not have any real impact to the property because of the wetland features that exist between the landfill and Mount Hope Estates. And also, based on the topography, groundwater from Mount Hope appears to flow southwest toward the creek.

Mr. Howard: So, that's away from the proposed subdivision; is that right?

Mrs. Hornung: Correct.

Mr. Howard: Okay.

Mrs. Hornung: The next question is does Draper Aden Groundwater Management Study show this area for high groundwater pollution potential? In your staff report has two graphics that are taken actually from this study that shows the recharge areas. The Coastal Plain Aquifer Recharge Zone contain several outcrop areas depicted in figure 1 and figure 2. The majority of the groundwater recharge that takes place in this outcrop area makes the Coastal Plain Aquifer Recharge Zone vulnerable to contamination from surface spills. The Mount Hope Estates subdivision is not located within this Coastal Plain Aquifer Recharge Zone and, therefore, according to the Draper Aden and Associates Groundwater Management Study, this is out of the area identified as high groundwater pollution potential. And then the graphics show where this zone is and then where Mount Hope is in relation to this aquifer zone. And the first figure shows, in purple, the outlined which is basically bordering along 95 north/south, and then in the second graphic it shows that further downstream from the stream is Mount Hope Estates, which is outside of that aquifer recharge zone. And this information actually came straight from our stormwater engineer on staff.

Mr. Howard: Thank you. Are there any questions on item 4 from anyone? No? Okay. We'll go to question 5.

Mrs. Hornung: The next one is how is leachate collected and treated? Leachate is collected under the cells where the trash is disposed. It is pumped into a tank onsite and tested monthly. And then this enters the sanitary sewer and treated at the Aquia Wastewater Treatment Plant. And this question, as well as the following question and answers, come from Andrew Mikel, the Superintendent, as well.

Mr. Hiron: Mr. Chairman, I do have a question about number 5. And actually it goes back to number 2. And you may not be able to answer this. This process of collecting and treating leachate; do we know how long that has been the process of how that's done? Is it ten years? Twenty years? Basically, I'm getting at number 2 didn't really... the answer didn't really answer the question in my opinion. Has the technology of landfills changed over the last ten years and the answer seems to kind of explain who's responsible for it but it doesn't really say yeah, it's changed this way over the last ten

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years. What I'm really, I suppose, getting at is how rapidly does technology of landfills, in particular, leachate containment change?

Mrs. Hornung: Not being able to answer that technologically correct by not being in that field but from what I recall being an employee of the Department of Environmental Quality, Air, Water and Waste, and through the environmental regulations that have changed over the years, and I don't know how long ago it was but there was a time when there weren't liners in landfills and lagoons and different types of facilities. And then, as technology improved with the type of material that is liner for these ponds and collecting pools and landfills, those liners have become stronger or a better material than they once had maybe twenty years ago, or maybe thirty or forty years ago, when landfills didn't even have liners. And so, as the regulations had improved and new landfills and expansions had come into play, then those regulations became more stringent because the environmental regulations improved over the years, not only with Chesapeake Bay but just in general. And so, whatever was done fifty years ago is definitely not the same that's done today. So there's more regulations in place. Subtitle D from the state code, gives the details on what's required and there's many regulations in place monitoring and also through construction and what's in place that's required for the landfill to operate. And through their permit they have certain requirements.

Mr. Hiron: Thank you.

Mr. Howard: Would it be fair to say that the testing of the leachate monthly... is that new? Is it in the last five years, ten years? Would you know that?

Ms. Kirkman arrived at 6:53 p.m.

Mrs. Hornung: I'm not familiar with the frequency.

Mr. Howard: Okay.

Mrs. Hornung: We didn't discuss the frequency when I had email transmittals between myself and Andrew.

Mr. Howard: Okay.

Mrs. Hornung: But I'm sure it's at a frequency that's required by the state.

Mr. Howard: Oh, I'm sure. But I was wondering if that was one of the answers that Mr. Hiron was looking for; that that's one of the differences today, that it's tested more frequently. I don't know if that's true or not.

Mrs. Hornung: Through a best professional guess, I would say it would be since groundwater and surface water monitoring is monthly.

Mr. Howard: Right. Okay.

Mrs. Hornung: And number 6, when the County tests the content of leachate, what do they test for? There's a number of items; antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, silver, thallium, vanadium, zinc, BOD (which is biological oxygen

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demand), chloride, cyanide and TSS (which are total suspended solids) are the ones that are tested. I believe that Mr. Tommy Thompson, in the information he has, not only for Patriot Ridge but for Mount Hope Estates, he has some graphics that would even address this further based on Health Department requirements. Number 7, is there a chance that a landfill cell liner could be punctured or leak? Yes, there's always that possibility, but with the double liner system and requirements under subtitle D, a puncture would include an eighty millimeter HDPE and three feet of clay with a ten to minus seven permeability. And the staff was confident that there was no example of a subtitle D liner failure in Virginia. What is the subsurface mitigation rate for leachate? Is this the same or similar to petroleum products? That information was submitted in email and, you have to excuse me but I failed to print that out.

Mr. Fields: We have it.

Mr. Howard: We do have it on the dais.

Mrs. Hornung: I apologize for that. I'll read number 8 and then I'll add any other for question 3 and 4 from this email. This came directly from the engineer, Resource International, who is on retainer for the R-Board and the landfill. The subsurface migration rate for leachate is at the same or similar to petroleum products. Based on the site specific hydraulic conductivity tests in groundwater in the landfill expansion area, the groundwater flow rate has been estimated to be 3.5 feet per year. Higher flow rates may occur in areas of steeper gradients, but we would not anticipate that this difference would vary by more than one order of magnitude or not more than 35 feet per year. The landfill leachate generally would not migrate faster than the groundwater flow rate, and it would in fact likely be slower because of natural attenuation factors such as absorption, volatilization, cation-exchange, etcetera. There is such a wide variety of petroleum products, and having such a range of viscosity, there is no basis for comparison. It could also be noted that petroleum products such as gasoline are pure products, whereas leachate is characterized as water holding dissolved chemical constituents, most often in parts per billion concentrations. Does the County monitor leachate potential outside the limits of the cells? A groundwater monitoring network is in place to monitor the groundwater around the property, which those were the monitoring testing wells that were listed on one of the landfill graphics that were submitted, that I do have them available to bring up if so needed. What are the typical remediation measures for leachate contamination of soil? The only contamination of soil by leachate at the landfill would occur within the actual lined cell. The contaminated soil would be removed, disposed of within the cell and then the clean soil is replaced. Remediation would be required if leachate were to contaminate outside of the cell and would be case dependent. Going back to questions 3 and 4 from the engineer, question 3 was the elevation of the water table at the landfill and Mount Hope Estates? The response from the engineer is that the groundwater elevation at the landfill expansion area has been measured in various monitoring wells between 153.04 feet and 193.26 feet. We are unable to comment on the elevation of the groundwater at Mount Hope without a site specific study at this location. Also, their answer to the Draper Aden Groundwater Management Study was that they didn't have access to that document, but in general, modern lined landfills were not considered to have a high potential... pollution potential, excuse me. That concludes all the answers to the questions that were asked by the Planning Commission at the last meeting. We do have Tommy Thompson here who has a presentation on additional items that are available for you, and any other questions you may have.

Mr. Howard: Great. Why don't we bring Mr. Thompson up. Thank you.

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Mr. Thompson: Good evening.

Mr. Howard: Good evening.

Mr. Thompson: I contacted the Department of Environmental Quality mainly to get an expert and I ended up talking to Richard Doucette. His title... I'll give you his title. He's the Northern Region Office Land Protection Manager and his expertise is landfills. And he has a lot of information. I said basically, if samples were to be taken from water samples from the wells, from the new wells to be installed at the individual lots, what would you sample for? And he says well, there are certain policies. With the existing landfill that's there, the monitoring wells that are surrounding the landfill are tested mainly for two different types of test; one is from Table 5.5 and it consists of testing for about sixty different items, from organic to inorganic compounds. I called the lab... it's one of the largest labs in Virginia... it's the Air, Water and Soil lab in Richmond, and they charge \$350 to run that sample, or those samples. If a contaminant is found, there's another type of test; it's Table 5.1 test and that is a test for over 200 different constituents. And I called the lab and they said that that type of test runs \$750 for that kind of test. I would be thinking, just from a layman's standpoint... and I did not ask Richard this question, I kind of thought about it on the way here... with the monitoring wells monitoring the site and the movement of any materials on the site offsite, possibly when a nearby well, one of those monitoring wells, shows contamination, that that would be the time that an adjacent well... 900 feet away was the closest distance that we were talking about... maybe should having some sampling done on that well at that time. Just as a layman's point of view, but I did not run that by Richard as far as the philosophy of that reasoning that I just said. I tried to get him to come to the meeting tonight but he could not make it. He said he is available sometime in the future to be able to come down and address the Planning Commission if you so choose that you would like an expert in hydrogeology.

Mr. Howard: Thank you. Are there questions for Mr. Thompson? Mrs. Hazard?

Mrs. Hazard: So, if I understand you correctly, right now any... wells within a certain proximity of the landfill now are periodically tested?

Mr. Thompson: No ma'am. If there is a problem in one of the monitoring wells, they would probably suggest testing that neighbor's well for the over 200 different constituents in that water. If something was found, he would recommend the larger testing.

Mr. Howard: And that was the \$700 and change?

Mr. Thompson: Yeah, \$750 I think was the charge.

Mrs. Hazard: Is there some requirement that you're aware of when if a monitoring well kicks out, you know, something's wrong that they automatically notify landowners within a certain, I don't know if it's geographic or so many feet or so many... which I would assume would be part of the landfill regulations that we would have.

Mr. Thompson: I think I read that in some of the information that he sent to me, yeah. It's their responsibility to notify... I'm not sure what the distance is... but neighbors that have a well that could be impacted.

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Mrs. Hazard: My follow-up would be, I think you're aware, on our plat we have this note number 5 that says, I know you've heard it many times but that it says it is recommended that the purchaser of these individual lots periodically test their water through an approved testing laboratory. In your opinion, we should keep that on this plat.

Mr. Thompson: It sort of can't hurt. You know, should it be tested when the well is brand new? That would be certainly a guarantee to the person that's drinking that water that there are no contaminants in there.

Mrs. Hazard: Correct. But, as I read this, when it says periodically test their wells that to me doesn't mean just upon occupancy. This is for whoever will live in that house for the next, you know, fifty/sixty years. I mean, I guess I'm trying to say your department agrees that that should stay on this plat.

Mr. Thompson: That's a tough question, you know. The Health Department requires sampling for coli form bacteria prior to the owner moving in. Anything other than that, the Health Department is probably not going to make a firm recommendation about sampling of these wells; that should come from DEQ. That's just a policy around a landfill. Are they going to require or suggest? It's a broader picture. You have people that have hydro-geologic backgrounds that can understand about aquifers, but I think the monitoring wells would be a key as to any suggestions by DEQ to further sampling anybody's well.

Mrs. Hazard: I guess I'm still trying to come back to where did this come from. And that may be more from the applicant as well, but... I mean, I'm happy it's in there but I'm still trying to pinpoint where this got on here because clearly there was some concern raised. And I'm just trying to find that out and I know the applicant, I believe, will be speaking so we may get an answer there.

Mr. Thompson: I do remember Andrea asking me a number of years ago, or a while back, what do you think the Health Department should recommend? And I believe I came up with the thought about, you know, if you're drinking water and you've been there for a while and you've got a well that's near a landfill and you all of a sudden notice a difference in the state or in the smell or in the color of the water, that would certainly be a time to resample. I've talked recently with some cohorts about this and they said well, this about this Tommy. If there's some contaminant in the water that's slowly oozing or seeping and, by some strange chance, gets into that water supply, it might be in such small amounts that they might not notice from the color or the taste or the smell. So, that kind of shot my idea out the window there.

Mrs. Hazard: I appreciate your comments.

Mr. Howard: Are there any other questions?

Mr. Hirons: Mr. Chairman?

Mr. Howard: Yes Mr. Hirons?

Mr. Hirons: From the laboratories you spoke with or got information from, was there any indication or any information on their turnaround time for their testing?

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Mr. Thompson: Ten days. Most samples were ten days.

Mr. Hiron: From the moment they pull the sample until the results are returned?

Mr. Thompson: Probably until they receive it. When they get the sample I think it's a ten day turnaround.

Mr. Hiron: Okay. My second question is, is really a follow-up to Mrs. Hazard's and it sounds like you may not have the answer and maybe Mr. Fields actually might. Is there a policy, do we happen to know, with the R-Board on notifying the public if there's any sort of leachate failure?

Mr. Fields: It's been awhile since I've been on the R-Board...

Mr. Hiron: I'm putting you on the spot though.

Mr. Fields: Yeah, I know. I'm trying to think... it's never been an issue like I say. If there was a policy, it was something that we never discussed I think because the mechanism is so complex and thorough. But I don't know for a fact if there was a technical policy for public notification if there should be a puncture of the cap of the liner and/or a failure or rupture of the collection system itself. So I'm sorry I can't answer that question.

Mr. Hiron: Thanks. That's all I had.

Mr. Howard: Okay. Ms. Kirkman, any questions for Mr. Thompson?

Ms. Kirkman: Yes, Mr. Thompson. My understanding of the difference in the hydrology between shallow dug wells and... which are not put in very often now with new homes... and the drilled deep wells, is that the shallow wells depend on surface water for recharging and the deep wells, which we'd likely see with the subdivision of this sort, the well is recharged from the aquifer. And my understanding about aquifers is that those contaminants, unlike surface wells, if the surface water is contaminated, there is a limited area that that contaminant can travel. But once a contaminant is in the aquifer, it could literally travel for miles and that if you're tapping into a deep well, your water is not necessarily coming from fifty feet away; it could be literally coming from miles away. Is that correct?

Mr. Thompson: That's my understanding; I agree with everything you've said.

Ms. Kirkman: So, the fact that these wells are located 950 feet from the testing wells or the landfill is not necessarily a protection.

Mr. Thompson: Based upon what you've said, it sounds reasonable to think that.

Ms. Kirkman: And then there's been quite a concern out in King George actually about the impact of some ash waste on waters, on drinking water, and are any of the ingredients or contaminants that are listed on this list of testing, are any of those the kinds of things that you would see with that kind of contamination?

Mr. Thompson: Well, I've been reading the Free Lance-Star and I also supervise King George. So, I talked to our Director, Dr. Brook Rosshiem, but the coal ash problem that has come up now in King

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George, they have stopped accepting the coal ash. But coal ash has created a lot of problems at other landfills and I believe it's about to be declared a hazardous waste. It hasn't been yet and that's going to be a big issue. When it is declared a hazardous waste there will be a lot more regulations that come into affect. But your question again about the coal ash and the contaminants in coal ash, I can't make any correlation between what's in a landfill unless they accept coal ash. I can't make a correlation between the contaminants in coal ash and what's in a normal landfill.

Ms. Kirkman: Well, I was asking if the kinds of contaminants you find in that sort of waste, or soon to be declared hazardous waste, are the kinds of contaminants that are tested for in the wells around the landfill.

Mr. Thompson: I don't have that knowledge.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Any other questions for Mr. Thompson? Thank you very much. I don't know if you had... did you have slides you wanted to show us or...?

Mr. Thompson: No, just if I needed to go to them there was a picture of the landfill and where the subdivision is.

Mr. Howard: Yeah, why don't we see that; it can't hurt.

Mr. Thompson: Alright. Well, somebody's got to help me here.

Mr. Howard: Computer please.

Mr. Thompson: Jeff Harvey, I sent him an email with an attachment.

Mr. Howard: Do we have that Mr. Harvey?

Mr. Harvey: Yes we do. Natalie is pulling it up now.

Mr. Howard: Excellent.

Mr. Thompson: There it is. Do I have a pointer or use my finger? I saw this at the last meeting and I said gee, maybe one of these days I'll have to do that. It's my understanding that the subdivision, and somebody who has maybe more knowledge than me, is located up in this area here. Is it showing up there? Yeah, there's the pointer. I believe the subdivision is located up in this area here and that the newest cell in the landfill is located where I'm going. There you go; that's the newest cell in the landfill. I don't think that's started to be used yet. But I just thought it would be good to know... good to see an overall picture of where the cells are in the landfill and where the subdivision is. We don't have any topographic maps of that here but this got sent to me by Richard Doucette.

Mr. Howard: Is that cell G... proposed cell G?

Mr. Thompson: Cell G, right.

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Mr. Howard: And that's the 900 feet then that we're...

Mr. Thompson: I believe so.

Mr. Fields: The one that's cross-hatched is cell G?

Mr. Thompson: Right. If we could blow it up... and if I can know where to click... here we go. I'm a little bit of a klutz here.

Mr. Howard: You can just click the plus.

Mr. Thompson: I don't know how to use this clicker. There we go. Now you can see which cell it is.

Mr. Howard: Oh, that's cell E.

Mr. Fields: That's E.

Mr. Thompson: That's E, cell E.

Mr. Howard: Alright, so I would guess cell G is that existing 250 foot...

Mr. Fields: These are all the existing cells right here. Cell D is the one they're using now.

Mrs. Hornung: It's upside down.

Mr. Howard: Right; now we understand. That's cell E.

Mr. Fields: Cell E, I thought they were already starting to prep that and getting ready to dig it. They may not have lined it yet but we were talking about getting Cell E operational two years ago when I was on the R-Board.

Mr. Howard: Is it safe to assume, Mr. Thompson, that the cells will continue in that same direction? So, cell F is next and then cell G, so cell G could end up where that 250 foot easement, power easement, is? We're close to that; I think that's what they showed in the...

Mr. Thompson: I heard the progression was A, B, C, D, E, F, G, so...

Mr. Howard: Right, okay. So that's the 900 foot...

Mr. Fields: Also, eventually they'll start going out into this area here too.

Mr. Howard: Okay, great. Thank you. We'll hear from the applicant now?

Ms. Karnes: Good evening Mr. Chairman, Planning Commissioners and staff. To directly answer Mrs. Hazard's question, when we researched the prior approval of this plan the Health Department back I think in 2006 made a recommendation that a note be added to the plan encouraging homeowners to do periodic testing for the leachate. There was no evidence that it was a problem; it was just a precaution. And, to accommodate the request, even though it's not required, the engineer

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put it on the plan. When the plan has come back to you guys for what they call revalidation, the comment was noted and the comment was again added. From all of the research we've heard, it does not seem to be... contamination of leachate does not seem to be a reasonable problem to be anticipated for homeowners.

Mr. Howard: Are there any questions? Ms. Karnes, was that your complete presentation?

Ms. Karnes: I think that right now we're talking about leachate and I think it is the applicant's position that putting the note on the plan adequately informs the potential customers of the issue. He will be glad to work with you in any other way and I'll be glad to entertain questions on that or any other issue.

Mr. Howard: Okay. Are there any questions for the applicant for anyone on the dais here? Okay, there are no questions at this time for the applicant. Thank you.

Ms. Karnes: Okay.

Mr. Howard: I'll bring it back to the Planning Commission for discussion. And again, Mr. Mitchell is not here and this is in his magisterial district. We thought he would be here at this point. So, I will... any other discussion for staff or any other questions or comments? No? Okay. Anyone want to make a motion which could include to table this until Mr. Mitchell comes so he can...

Mr. Fields: I would make that motion. I'll let him make the motion for if he wants to move for the plan.

Mr. Howard: So, is there a second?

Mr. Fields: To table, right.

Mr. Howard: Right. Is there a second?

Mrs. Hazard: I'll second that.

Mr. Howard: Okay; any discussion on that? All those in favor of tabling item 2 till Mr. Mitchell arrives, assuming he's going to arrive within the next forty-five minutes or so, signify by saying aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Okay, item 3 is actually an item that was moved to the January 5th meeting which, I think, we'll be able to dispose of on January 5th based on the events of last night. In any case, we'll leave it for the January 5th meeting and we now will go back to item 1 which is the Patriot Ridge Preliminary Subdivision Plan. And we will hear from Natalie.

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1. SUB1000017; Patriot Ridge - Preliminary Subdivision Plan - A preliminary subdivision plan for 16 single family residential lots on private well and septic systems, zoned A-2, Rural Residential, consisting of 23.12 acres located on the west side of William and Mary Lane, approximately 1,200 feet south of Decatur Road on Assessor's Parcels 31-67 and 31-68 within the Griffis-Widewater Election District. **(Time Limit: December 29, 2010) (History - Deferred at October 6, 2010 Meeting to October 20, 2010 Meeting) (Deferred at October 20, 2010 Meeting to November 3, 2010 Meeting) (Deferred at November 3, 2010 Meeting to December 1, 2010 Meeting) (Deferred at December 1, 2010 Meeting to December 15, 2010 Meeting)**

Ms. Kirkman: Mr. Chair, I make a motion to defer this to the January 5th meeting.

Mrs. Hazard: Second.

Mr. Howard: Okay. Discussion? Ms. Kirkman, you have the first opportunity to have the discussion. No discussion? Mrs. Hazard? Right, I understand. All those in favor of the motion by Ms. Kirkman signify by saying aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 5-0 (Mr. Rhodes and Mr. Mitchell are absent).

Ms. Kirkman: You said nay.

Mr. Howard: Right, I didn't say nay. I have to say nay on every vote. But the motion carried 5-0 so thank you Natalie. Okay, now we're vastly approaching the public comment period. Item 4, we're requesting additional time. I don't know, Mr. Harvey, if you have an update on that?

3. COM1000010; Comprehensive Plan Compliance Review - Miracle Valley Lane Sanitary Sewer Extension - A request for review to determine compliance with the Comprehensive Plan in accordance with Section 15.2-2232 of the Code of Virginia (1950) as amended, for the extension of gravity sanitary sewer outside of the Urban Services Area a length of 505 linear feet to serve two residences, located on the north side of Deacon Road and east side of Grafton Village Elementary School on Assessor's Parcels 54-132, 54-133A and 54-133B within the Falmouth Election District. **(Time Limit: July 4, 2010) (History - Deferred at May 19, 2010 Meeting to June 2, 2010 Meeting) (Deferred at June 2, 2010 Meeting to October 6, 2010 Meeting) (Deferred at October 6, 2010 Meeting to December 1, 2010 Meeting) (Deferred at December 1, 2010 Meeting to January 5, 2011 Meeting)**
4. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) **(Time Limit: October 6, 2010) (History - Deferred at June 16, 2010 Meeting to August 18, 2010) (Deferred at July 21, 2010 Meeting to September 1, 2010)**

(Deferred at September 1, 2010 Meeting to October 6, 2010 Meeting) (Deferred - Requesting additional time from Board of Supervisors)

Mr. Harvey: Mr. Chairman, I've not heard a response on this issue. However, items 5, 6 and 7 were addressed in the hand-out that we provided you tonight. The Board of Supervisors has granted an extension of the time limit regarding conditional zoning, privatized liquor sales and Transfer of Development Rights. The time limit has been extended to April 6, 2011.

Mr. Howard: On all three?

Mr. Harvey: Yes sir.

Mr. Howard: Thank you.

5. Discussion of Conditional Zoning (Proffers) **(Time Limit: January 4, 2011) (In Committee) (Requesting additional time from Board of Supervisors)**
6. Discussion of Privatized Liquor Sales **(Time Limit: January 4, 2011) (In Committee) (Requesting additional time from Board of Supervisors)**
7. Discussion of Transfer of Development Rights (TDRs) **(Time Limit: January 4, 2011) (In Joint Committee) (Requesting additional time from Board of Supervisors)**

NEW BUSINESS

8. Discussion of Residential Facility **(Time Limit: March 1, 2011)**

Mr. Harvey: Mr. Chairman, item number 8 under new business is a proposed ordinance and we do have a copy at your desk. We provided a previous version that was not updated unfortunately in your packet. But the proposed definitions are to bring our County code into compliance with the state requirements, specifically dealing with Health Department licensed residential facilities, as well as Social Services licensed residential facilities. In essence, these are group homes that are licensed by the state and really are not regulated by the local government. However, the Zoning Administrator has recommended that we include these definitions within our Zoning Ordinance to make it clear to people what these types of activities are.

Ms. Kirkman: Mr. Chair, I have a question.

Mr. Howard: Yes Ms. Kirkman.

Ms. Kirkman: Are there certain types of group facilities such as the Teen Challenge facility that are not licensed? Or are there what many people would, on a lay basis, consider a group home that would not be licensed by DSS and, therefore, would not be covered by this definition?

Mr. Harvey: Ms. Kirkman, I believe the issue with the case that you're referring to with the Teen Challenge type of residential facility is that it's a different animal in that they deal with alcohol and

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substance abuse which is not regulated in these definitions. So they are considered to be under a different category, if I recall correctly, under the state regulations.

Ms. Kirkman: So they are not licensed by DSS?

Mr. Harvey: I am uncertain as to which agency of the Commonwealth licenses them, or if any.

Ms. Kirkman: Because I think it would be important to find out who licenses facilities for alcohol and substance abuse treatment. That would be helpful and whether or not they should be included in this definition as well.

Mr. Howard: So, can staff get that for us for the January 5th meeting? Is that possible, Mr. Smith?

Mr. Smith: Yes, Mr. Chairman, Ms. Kirkman. I would add that this material that is proposed to be incorporated into the Zoning Ordinance is taken nearly verbatim from the state code. So this particular definition will apply regardless of whether... it's a state mandate so it will apply regardless we incorporate it within our Zoning Ordinance. The state code requires that we consider these particular facilities as residential occupancy by a single family. But we can look into the Teen Challenge and similar uses.

Ms. Kirkman: Well, could we just back up a second? So, you're saying that, and it's not really clearly stated I think in the materials we got that the state code requires these types of facilities to be treated by zoning as a single-family home?

Mr. Smith: That's correct. If you'd like, I can read at least the opening sentence of the two subsections of the state code section.

Ms. Kirkman: So, are you... so, is the understanding then that anywhere in the County that single-family homes are allowed, these types of facilities are allowed?

Mr. Smith: Yes, Ms. Kirkman. These would have to be treated... these particular facilities would have to be treated as single-family residences for zoning purposes.

Ms. Kirkman: Thank you.

Mr. Howard: So, the request here really for the Planning Commission is to really authorize a public hearing for this, right, because we're going to adopt the state's language.

Mr. Harvey: Correct Mr. Chairman. That is the request; that we have the Planning Commission conduct a public hearing and make a recommendation to the Board regarding this ordinance.

Mr. Howard: Alright; so can we...

Mr. Fields: Mr. Chairman, may I ask a question, a background question? Is this a recent change to state code?

Mr. Howard: Is it a recent change, Mr. Smith?

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Mr. Smith: I would have to pull out my state code to see exactly what the past couple of changes were, but I know that it was amended in '07, '08, '09 and 2010.

Mr. Fields: Alright, because these are all less than '08. And the primary purpose of this definition, right, is to require that we treat these facilities exactly like a single-family home. When I was on both the CPMT, Community Policy Management Team, and the Board of Social Services... well I guess if this is mandated by state code... I will say that this is a little disturbing because I can tell you partly where this comes from is there is a very, very, very profitable speculative industry in purchasing properties, leasing them as residential facilities, receiving tax breaks and, because of the amount paid by the local governments and state government for the care, you can pay off the mortgage in a single-family home in about five or ten years and then they boot everybody out and then they have a house that's paid for. It happens all the time; it's not necessarily illegal though it's somewhat morally repugnant in my book. But, I'm a little concerned because this obviously facilitates that by disallowing the ability of the County to treat those people... this greatly facilitates that use of Social Service group homes as a real estate speculation scam.

Mr. Howard: Well, I don't know that...

Mr. Fields: But I guess we don't have any choice about it.

Mr. Howard: I'm not sure; I mean, the opposite...

Mr. Fields: Obviously the industry that lobbies the General Assembly did a good job and got this law changed for themselves.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes Ms. Kirkman.

Ms. Kirkman: I would say, as the former director of Children's Mental Health Services for the State of Virginia, I do share Mr. Fields' concern. While there are many people who toil tirelessly and in very underpaid situations to care for children and adults with serious emotional disturbance and mental illness. Unfortunately, there's a for profit element in that industry that takes advantage of these sorts of things. So, I certainly understand my colleague's concern.

Mr. Howard: I think you can say that about almost anything in life, unfortunately. How much time do we have on this?

Mr. Harvey: Mr. Chairman, you have until March 1st to conduct your public hearing and make a recommendation.

Mr. Howard: Right. I think we would like to put this on the next meeting agenda, not as a public hearing obviously, but as an item on the agenda. So move it from new business to unfinished business. And then I would like to have the definition of the teen facility available to the Commission at the next meeting. And is there anybody else on the dais want any other information?

Ms. Kirkman: Yes, Mr. Chair, if we could get the language from the state statute.

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Mr. Howard: Sure. So, if we can get a copy of the complete state statute, that would be great.

Mr. Fields: Certainly the bill... if we could at least for our own research purposes, the bills that changed, that made the most recent changes so we can track who sponsored them, what committees they were in and what... how that evolved. If I can just get the bills, I'm not asking staff to do that tracking; I can do that if I just know what bills changed. What relevant bills of which session of the General Assembly changed the code to do this.

Mrs. Hazard: I guess just adding onto that was I would just request what the definition was in 2008, 2009... really along with what Mr. Fields was saying. But just sort of how that definition grew or shrunk or whatever it did, that would be helpful. Thank you.

Mr. Howard: And you know what else Mr. Harvey? While you're researching, is there... so, for the Department of Behavioral Health and Development Services, what is... can we also see the requirements that you would have to abide by in order to, you know, open up one of these types of facilities? If there's a way to get what do they require. I'd like to understand that a little bit better too, because I honestly don't know enough about that.

Mr. Harvey: Yes, Mr. Chairman, we'll try to find that information out.

Mr. Howard: Thank you.

Mrs. Hazard: Mr. Chairman, just since we do have till March 1st, I believe our first meeting is January 5th, I'm not trying to delay this particular action but I don't know what people's...

Mr. Howard: Well, Mr. Harvey, do you need more time?

Mrs. Hazard: If you need more time I would want to at least offer that to staff that it's not critical on the 5th, as long as we get the information.

Mr. Howard: That's a good question actually.

Mr. Harvey: Thank you. That would be helpful if we could bring it back to the Commission on the 19th.

Mr. Mitchell arrived at 7:30 p.m.

Mr. Howard: Great, that'd be great. Okay, we'll now open up the meeting for public comments. We do have public hearings this evening. I think there are four actually. Yeah, there are four but I think two will be combined. So, anyone wishing to address the Planning Commission on anything that is not a scheduled public hearing may do so tonight. So, again, there are four items on the agenda for public hearing; it's a Comprehensive Plan Review on Telecom Tower, Conditional Use Permit for the T-Mobile Communications Facility, Reclassification of the KAMCO LLC property, and then the amendment to the Subdivision Ordinance 22-190, street access. So, if you don't want to talk about those, you can come up to the podium now. You have three minutes to address the Planning Commission. When the green light goes on that's when the three minutes begin and you can address us on any topic you like. We don't typically respond; however, we do try and get an answer to an item that is brought to our attention if we can this evening. But, again, we won't have a two-way dialogue

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during the public presentation. So, anyone wishing to address the Planning Commission may do so by stepping to the podium. We just ask that you state your name and address and then the clock starts to tick. When the yellow light starts to flash you have about a minute left, and then when the red light flashes we ask that you conclude your comments. Anyone wishing to address us may do so now.

7:30 P.M.

PUBLIC PRESENTATIONS

Mr. Waldowski: Paul Waldowski. I thought I'd use this time tonight to summarize what I've been going after. I'm not really interested in the Comprehensive Plan; I'm glad I learned some things about it because I realize the property I own has been in a UDA. We all know you spent thirty-three meetings... Murphy says a meeting is the place where the minutes are kept and the hours are lost. Now, based off locality, transportation and water and sewer, I will give you the short story of buying a townhouse twenty years ago, when I lived payday to payday, serving my country, qualifying for a 3-2-1 buy-down mortgage, then discovering because I'm Rip Van Winkle that I owned a storm pond. And I recently sold it on September 17th to someone else who didn't realize that they're a member of the House of Aristocrats, which is an HOA. About eleven years later I bought a condominium which was also belonged to an HOA. And in that condominium I still do not get a water bill and my trash... I've tried to use County services and the County Attorney has all kinds of times for everything else and my perspective, as a citizen, you work for me, I don't work for you. I pointed out the error that staff can't use to get rid of the trash off my balcony that makes my condominium smell and look like a ghetto. And if you're going to use these condos and townhouses as UDA examples, then you need to fix the strawman that's been broken for twenty-eight years. In many of these subdivisions, there are no sidewalks or streetlights. Now, from my condominium I could walk and see Dr. (inaudible) and become a physician assistant. And then I could walk to Dan's pharmacy and pick up my high blood pressure medical. Can you imagine? I have high blood pressure. Golly. But I could go to three CVSs which are within a five mile radius. But then again, I can't ride my golf cart there. So maybe the transportation I can use is the FRED... is that Fred Flintstone? Oh, I'm sorry. Now, you've also built commercial buildings and we have... uh, that we can walk to, and then there's Paddy's so I could go get a drink. I could go pay Dr. Lupi who used to be in Dan's pharmacies the orthodontist bill. And if you don't believe that we have a Garrisonville UDA, well we have a Garrison UDA. And you've put it together the last twenty-eight years. And if you don't learn the lessons of that strawman, then you're going to make the same mistakes in wherever you put them; eight other UDAs, whatever you claimed, because I really don't care because I care about today. It's like Social Security; I'm so glad that we had the (inaudible) by Senator Sanders. So I learned that we have twenty-nine years of solvent Social Security. After that, we'll decide on something else. One other thing that happened this year is, on 9/12 my dad passed away so I truly became Mr. Waldowski. I like how some of you greet me on that and that's pretty good. But my youngest son will someday become Mr. Waldowski. Unfortunately for me is he's a better debater, has much more calm demeanor than I do, and doesn't get all excited and riled up about being taken advantage of. I guess that goes with being a twenty-three year old. Now what we need to do in this County is learn from these mistakes because the reason I've come here is simply give me my water bill, fix my trash pickup, and you need to do a storm pond water management utility like Prince William because I don't care what staff says or someone else telling me that Wawa has stormwater. It's coming into my storm pond just like Shenandoah is. And the poor people of the County should not have to pay for all the contractors who turn over to the Houses of Aristocrats and the common man all these bills that are unnecessarily. So, I wish you all a pleasant

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holiday season and I'll see you next year and I'll bring you lots of one slide entities to keep you all entertained.

Mr. Howard: Thank you Mr. Waldowski. Anyone else wishing to address the Planning Commission may do so by stepping up to the podium. Seeing no one else advance towards the podium, I will close the public comment section and we are now in the public hearing portions. For item 1 and 2 on the agenda, we will take those up immediately following the public hearings.

Mr. Fields: We actually disposed of item 1.

Mr. Howard: You're right. So it's item 2, thank you. So now we'll go into public hearing for the Comprehensive Plan Review, Telecom Tower, T-Mobile Communications Facility, Synan Road. And we'll hear from Mr. Hess.

PUBLIC HEARINGS

9. COM1000119; Comprehensive Plan Compliance Review - Telecom Tower - T-Mobile Communications Facility @ Synan Road - A request for review to determine compliance with the Comprehensive Plan in accordance with Virginia Code § 15.2-2232, for a 150 foot tall monopole telecommunication facility on Assessor's Parcel 54-26B consisting of 5.44 acres, located on the south side of Synan Road, approximately 600 feet west of Deacon Road, within the Falmouth Election District. **(Time Limit: February 13, 2011)**
10. CUP1000243; Conditional Use Permit - Telecom Tower - T-Mobile Communications Facility @ Synan Road - A request for a Conditional Use Permit to allow a 150 foot tall monopole telecommunication facility in an M-2, Heavy Industrial Zoning District on Assessor's Parcel 54-26B consisting of 5.44 acres, located on the south side of Synan Road, approximately 600 feet west of Deacon Road, within the Falmouth Election District. **(Time Limit: March 15, 2011; April 16, 2011 Board of Supervisors Deadline)**

Mr. Hess: Mr. Chairman, with your permission, I'd like to consolidate my presentation for the items number 9 and number 10, if that's okay with you.

Mr. Howard: That would be wonderful.

Mr. Hess: Okay. May I have the floor computer please? Tonight staff brings to you two cases running concurrently together. This is T-Mobile Telecommunication Tower at Synan Road. You have the Comprehensive Plan Compliance Review, COM1000119, and then the Conditional Use Permit, CUP1000243. The applicant, as mentioned before, is T-Mobile Northeast LLC. Nathan Campbell is here tonight; he's with Smartlink LLC. He's the agent representing T-Mobile tonight. The Assessor's Parcel is Tax Map 54, Parcel 26B. The area is approximately 5.44 acres. The site is located on the south side of Synan Road approximately 600 feet west of Deacon Road. And, as you can see in this picture, there are some residential... well-established residential neighborhoods to the west and to the east and to the north. The request is for compliance with our Comprehensive Plan for a new telecommunication facility on the subject parcel. They are proposing to construct a 150 foot monopole tower. Here is an aerial photograph. It seems to be that the tower proposal is located within an industrial park, which I'll show on a later slide. As you'll see on the proposed property, the proposed tower is to the northern point of the parcel subject area. Here is the access going along Synan Road

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and, as you can see, there are some industrial buildings on the parcel itself and to the south and to the east. And then you have the railroad track running along to the west. And with that, there is the existing zoning. As you can see, there is M-2 zoned property which is heavy industrial to the north and to the northeast. There is also some M-1 properties to the east. As you go further down southeast, you have some residential properties running along Deacon Road and then of course there's another heavy industrial property to the south. The railroad track is zoned A-1 and, of course, on the west side of that is Clearview Heights which is a residential subdivision zoned R-1. Here is what used to be the current Land Use Map. The light gray is light industrial. What you get is the area designated for clean (inaudible) and industrial uses which are not water intensive or located near transportation... excuse me, and are located near transportation systems. The yellow is suburban residential which permits residential (inaudible) at max density of three acres... excuse me, three dwelling units per acre. And then the light blue you have right there is resource protection. Currently on the site there is a 35,000 square foot building, approximately that size. It's an industrial warehouse and storage facility. The entire property is actually enclosed with an eight foot tall chain-linked fence and it has barbed wire going on the top of it. The industrial facility again, as you saw in the aerials, is located central to the property. Again, the property has access only by means of Synan Road and there was a stream, or there is a stream, excuse me, that is within a resource protection area to the north offsite. And when I say offsite, I mean offsite of where the telecommunication facility is located at, or proposed to be located at. Again, the proposal is for a 150 foot monopole tower. The ground compound is going to be approximately twenty feet by forty feet with equipment cabinets up to the interior of it. The icebridge will also be interior to this compound, to connect the cabinets, the tower. The facility, excuse me, around the ground compound will have an eight foot tall chain-linked fence to match the existing one that goes around the entire subject area. The tower, again, is designed to accommodate a minimum of three providers, but there is also, as you will see, two additional areas for future lessees on the site, on the tower. And here's the first site overview picture. As you can see, there's the existing industrial warehouse. The tower is to the north of it approximately in the northeast corner of it. The railroad tracks run along parallel here. And Synan Road, as far as access to get the telecommunication facility. Here is the ground compound layout. This would be the northeast; Synan Road would be running right about here. There is an opening gate, or there is a locked gate rather, to get to the property. So there is an existing gravel road and then you just turn right into the facility, and it has its own fence going around the outside. It does have planting of trees, evergreen trees, on the outside of the chain-linked fence it's proposing. Here is the tower, the icebridge, the equipment cabinets are right here. The lease areas; one is proposed here and then another lease area right there for future providers. Here is the elevation view, or rather the monopole out of the elevation with T-Mobile at the top and then the additional providers below. And then the compound at the base of the tower. Here is some photo simulations that were provided to us from the applicant. This one is at the entrance of Woodlawn Terrace which is... there's Deacon Road in the foreground and then the tower is there in the back ground. Another picture is taken approximately from the entrance to Ridge Road, excuse me, Ridge Pointe Subdivision, and as you can see off in the distance there, I believe that's a VDOT building right there and then their subdivision sign. So, there's the tower in the back there. And again, this is Deacon Road. And here's a shot from Butler Road looking across looking, I guess, to the north and you can see the tower simulated right there above the tree line. Some of the criteria that staff uses to, when we evaluate telecommunication towers is to look at siting criteria and we look for collocation on existing telecommunication facilities which there are a few within the areas. Some of them, T-Mobile already is currently collocated on. There was another one off of Mountain Avenue which was outside the range. I'll show you what the propagation map shows in a second. And then there's another requirement; another criteria we look at is spacing, three to five miles between facilities. Again, we'll look at that on the propagation map. We discourage impacts to historic properties and

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aircraft operations which there was a notice from the Virginia Department of Historic Resources stating no direct or visual impacts on historic properties from this tower. We also discourage the location of facilities near residential concentrations. And in the report we noted that the nearest residential property was over 400 feet away and it wasn't any of the subdivisions that you saw earlier. It was actually the residential properties that are located off of Deacon Road that are the closest to the tower. And here is the existing coverage. This is the Leeland Station tower that came to you all I believe last year, last July. This is the proposed tower. This is the existing tower off of Cool Springs Road. T-Mobile is on this tower and they are collocated on the tower at Leeland Station. The marking here is where the AT&T tower went and, as you can see, it's... and this of course is the proposed one... it's a little outside the range and they've already got existing coverage in this area where the AT&T tower is at so it wasn't feasible for them to collocate at that location as they are looking to provide service along the CSX tracks, railroad. And here is the proposed... essentially they're filling in their gap along the VRE railroad... or, sorry, the CSX tracks.

Mr. Howard: Mr. Hess, what is the distance between the two towers?

Mr. Hess: That I'm not quite sure on that one.

Mr. Howard: Okay.

Ms. Kirkman: What's the (inaudible – microphone not on)?

Mr. Hess: I'm guessing right where the green is at.

Mr. Howard: Go back to the previous slide. And if you go forward you'll see what changes to the green...

Mr. Hess: Ready for me to go forward? Does that help?

Mr. Howard: Go back again.

Mr. Hess: Okay.

Mr. Fields: There's three layers of coverage

Mr. Hess: Right.

Mr. Fields: The green, we're just talking about indoor residential coverage.

Mr. Hess: Correct, yes. And blue is vehicle and then yellow is on-street.

Mr. Fields: Well, they already have coverage throughout that whole area. It's just not the high... the most intense level of coverage.

Mr. Hess: Right.

Ms. Kirkman: But what you've said is this is for VRE, to serve VRE. So they wouldn't need the green and they've already got the blue.

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Mr. Hess: I guess it will also help with the existing residential neighborhoods that are surrounding.

Ms. Kirkman: Thank you.

Mr. Hess: Sure. Other criteria that we look at is facility design standards. We look for a collocation of at three carriers, we look for low impact design, as far as design, color and scale, facility design to minimize impacts specifically near residential neighborhoods and we look at towers being set back from property lines and adjoining dwellings. Now the property lines we're talking about are from residential and agricultural property lines. As noted earlier, this site is located within an industrial park, the Synan Road Industrial Park. When evaluating against the Comprehensive Plan, the Telecommunication Plan, we found that the positive aspects were the propagation map support, the spacing between the facilities, they are providing for future collocation of other carriers, the tower's fall zone is set back well over 400 feet from any residential properties. As mentioned earlier, there are no impacts to historic resources or aircraft operations and there's no interference to the County's public safety communication equipment or signals. The negative aspects was it's not consistent with the spacing requirement of the Telecommunication Plan and there is the potential for visual impacts to surrounding established residential neighborhoods.

Mr. Fields: Mr. Chairman?

Mr. Howard: Yes Mr. Fields?

Mr. Fields: I see you have a couple of the digital simulations; were there any from Clearview Heights?

Mr. Hess: There were but the pictures were... they didn't show... there was no view, no sight of the tower from the pictures that they took.

Mr. Fields: So, we don't know what the visual impacts are from any of the Clearview Heights...?

Mr. Hess: Well, there were no... from the pictures that they took, there were no visual impacts.

Mr. Fields: So you can't see a tower anywhere from Clearview Heights?

Mr. Hess: That's correct.

Mr. Fields: Okay.

Mr. Hess: And the recommendation is that staff believes, you know, based on balance that the proposal meets the goals and intent of the Telecommunication Plan and finds that... recommends the Planning Commission find the request compliant with the Comprehensive Plan. And, moving along, the conditions of the CUP, it is permitted for only one tower onsite. The height, the type and location is to be in conformance with the Generalized Development Plan. We've asked the applicant to incorporate a low impact design... excuse me, rather recommended low impact design. The tower is designed to accommodate at least three providers. Screening will consist of both an opaque and evergreen landscaping on the outside. There will not be any interference with 911 or the airport as far as signals are concerned. And, at some point in time, if the County wishes to collocate on the tower, we ask that they provide space for the County to collocate. And with that, staff recommends approval subject to the Comp Plan Compliance Review. And, again, this is the standard issuance that we look

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at. Again, we stated it does not change the character of the established development pattern which, again, it's an industrial park. It will not hinder or discourage development on adjacent properties. And it does not adversely affect the health or safety of adjoining residential properties. And again, low impact design will reduce visual impacts of the tower equipment and ground facilities. And with that, I will take any questions.

Mr. Howard: Any questions for Mr. Hess? Mr. Fields?

Mr. Fields: My recollection over the years is there used to be clauses in the conditions or in somewhere, and maybe if I'm missing them please bring them to my attention, about where if the... under whatever conditions that the tower no longer has value that the owner of the tower is required to dismantle and remove the tower.

Mr. Hess: That's correct.

Mr. Fields: Is that in here somewhere?

Mr. Hess: Condition number 7, once the tower facility is no longer in use, with written notice.

Mr. Field: Okay, thank you.

Mr. Hess: You're welcome.

Mr. Howard: Any other questions? Ms. Kirkman?

Ms. Kirkman: Mr. Chair, can we go back to the depictions of the...

Mr. Howard: Coverage?

Ms. Kirkman: No, of the site lines?

Mr. Hess: The visual impacts slides?

Ms. Kirkman: Mm-hmm.

Mr. Hess: That was the first one.

Ms. Kirkman: And the second one? Now, first off, who takes these? Does staff take these?

Mr. Hess: The applicant takes these.

Ms. Kirkman: These are provided by the applicant.

Mr. Hess: That is correct.

Ms. Kirkman: So, they choose the vantage point from which the picture is taken.

Mr. Hess: I would say yes. I mean, they're out there taking the pictures.

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Ms. Kirkman: Okay, and can we move to the next one?

Mr. Hess: Certainly.

Ms. Kirkman: You know, one of the things that's hard to tell about this particular visual impact picture is they've managed to take the picture with the tower right behind a fence with similar design. So, have you been out there? Do you know what the visibility is actually from the street rather than from behind this Ridge Point sign?

Mr. Hess: I mean, I have been out to the site itself. I have not gone to the specific points where they took pictures to do their photo simulations.

Ms. Kirkman: Okay, thank you.

Mr. Hess: You're welcome.

Mr. Howard: Any other questions for Mr. Hess? Mr. Hess, you indicated twice that there'll be a minimum of three providers.

Mr. Hess: Correct.

Mr. Howard: Is there any maximum in the CUP? In the Conditional Use Permit?

Mr. Hess: I imagine... there is no maximum, no. There is no condition that says there will be a maximum of five or six providers total. I guess it would all depend on what the structure can handle, what the tower can handle structurally as far as equipment on there and the height of the tower too.

Mr. Howard: For previous applicants, have we established a maximum number of providers per tower?

Mr. Hess: Not that I've ever seen.

Mr. Harvey: Mr. Chairman, our Telecommunications plan encourages collocation, so the plan encourages more providers on fewer towers.

Mr. Howard: On a single tower... okay. Thank you. Any other questions for staff? Hearing none, we'll now hear from the applicant.

Mr. Michal: Good evening Mr. Chairman. For the record, Jim Michal; I'm with Jackson and Campbell, and Nathan Campbell is here with me. Mr. Hess did a thorough presentation so I won't repeat it. The staff reports cites why we feel... our reasons why it complies with the plan, as with the notes Mr. Hess points out. I wanted to kind of get in a little bit more what T-Mobile's plan is for the County. I met with Commissioner Hiron. T-Mobile has a plan, of which this is one of five sites, which is to get coverage along the eastern portion of the County along the VRE right-of-way. Our objective is twofold; and that is to get coverage, both voice and broadband, in that area of the County which is lacking, and, at the same time, allow for wireless use for the VRE commuters. We think that could be an enhancement to VRE. I understand, from reading some of the papers, they've had some mechanical breakdown issues and concerns about folks continuing to ride it. We believe if there's a

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reliable wireless network that will provide broadband service, that that would enhance the likelihood of membership staying with VRE and potentially increasing it because if there's problems along the VRE, a breakdown, folks can do their business while they wait for the problem to be fixed. What I'd like to show the Chairman and the members of the Commission is a picture showing this plan. I've got copies here which shows, as Mr. Hess mentioned, the Leeland Station where T-Mobile is collocated on. This site, if it's approved, will connect the coverage with that site and this site, and the we're looking forward to do three more sites along the railroad right-of-way which would reach east to the river and west back to the sites along Interstate 95 so that we would have a fairly seamless you pick what is coverage in that eastern portion of the County. And also providing what a lot of folks want now and that is access to the internet. One of the... the Commission may have seen recently an article in the Washington Post which appeared on November 30th. And it was in the Health and Science section, Mr. Chairman, and it read "are we headed for a smartphone meltdown?" And what that article spoke to was the fact that because folks now do not only have a wireless device to speak for voice purposes, but they now are relying on their wireless device to access the internet. The problem is, is that when you're accessing the internet with a wireless phone, you're utilizing more bandwidth, alright, than you do with a voice call. As a result of that, when you're utilizing bandwidth either to download, read email, send emails, download documents and the like you're utilizing more capacity at the site with which you're connected. The article goes on to explain that if you imagine a two-lane road now that has 100 cars riding on it and all of a sudden you added another 500 cars to that same two-lane road, you're going to have a problem. And so, what's going on here is carriers such as T-Mobile and the others not only have to provide a coverage for their subscribers, but also capacity in order for the folks to continue to be able to use their smartphone devices in a reliable manner. So, what we're trying to do here is kind of get at least a little bit ahead of the game because now most of folks have phones, I think they largely use them for voice, but more and more are getting these devices, the ol' smartphone. And the penetration is growing by leaps and bounds. I suspect there'll be thousands, if not tens of thousands, smartphones sold over the holidays and the result means that if T-Mobile and other carriers are going to be able to provide their subscribers with the internet access that they want, they're going to need to add sites. So, we feel we've come forward with an application that serves multiple purposes; one, solving a coverage need that we have in this part of the County, both to the VRE commuters who would ride, as well as to the residential neighborhoods to the east and west of the railroad right-of-way, connecting to the Leeland Road Station as well. We also believe we're providing a service which folks want and that is not just the voice capacity but the broadband access capacity. I've read a little bit; I think I understand the broadband service in at least the eastern part of the County more so to the north is somewhat lacking, probably because you don't have a lot of cable service out in that area or Verizon's FiOS, depending on where they're going to run their lines. And that's because it's a business decision; you're not going to spend tens of thousands of dollars running cable, wire, whatever it may be, if there are only a handful of homes to be serviced. The beauty about broadband, if you can get the antennas up in the area, you don't need to tear up all that ground and you get broad geographic coverage through the wireless component. So we think we're going to be providing a well needed service here to the VRE commuters, to the neighborhoods in and around the railroad right-of-way here and, again, it's not just the on-street coverage. Folks want to be able to use their devices almost everywhere that they go. We concur with staff's conclusions; the proposed development conditions, Mr. Chairman, are acceptable to the applicant. We do need to cite if the AT&T site could have worked, we would have loved to use it because we would be up on the air providing the service. But it's less than a half a mile from where our existing site is. And as the coverage map provided, it would do us no good; we would not get the service we would need to the north of the site for now and it would not connect to our Leeland Road substation, or station site. Having said that, Mr. Chairman, I'd be happy to answer any questions.

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Mr. Howard: Great, thank you. I'll bring it back to the Commission. Any questions for the applicant?

Mr. Hiron: Mr. Michal, again, we did meet and thank you for taking your time and doing that. I had a fairly lengthy and really good conversation, much of the content you just went out which is good for the County. It's something the County definitely needs and, as I understand, the Telecommunications Commission is right now, in conjunction with the Board, talking about broadband and broadband access. But back to... because you brought it up and gave us the map of your plans here and your additional plans for additional towers... I think you said you had thoughts of three more.

Mr. Michal: Three more to the north.

Mr. Hiron: It looks to me as though, if that's the case, you're missing a large portion around the Brooke area basically. What is the plan for that, or is there...?

Mr. Michal: Well, a lot... on the site numbers on that map, Commissioner, the first one above Leeland would be 351, 350 and 349. You can see them along closer to the river, the numbers there. What we have to see there is how much height we get from each of those three towers. Probably we're looking maybe going as high as 195 so we get broader geographic coverage. As you may know, those areas aren't densely populated and so when that occurs, the carriers can get broader geographic coverage because they can broadcast out a little bit further because the amount of users aren't there quite as great. So, it's one of these things that will have to be engineered down the road and it may be if there is a gap or a hole, we would fill it with a shorter infill site. But right now, from what I'm told anyway, the engineers feel if we can get those three other sites to the north as a height maybe of 195, we should get pretty broad geographic coverage all along that right-of-way.

Mr. Hiron: Okay.

Mr. Michal: And, you know, we're not going to ignore any area. If it's underserved and we can fill a hole, we'll do it. But we think with those three sites... and we're out there looking for them now, we're close to signing a couple of leases... we think they'll completely fill in or to a large extent fill in those areas in that portion of the County.

Mr. Rhodes arrived at 8:02 p.m.

Mr. Hiron: The one other thing we discussed, changing subjects slightly, was just the conditions. And you had offered and would be willing to add making certain VRE has access to collocate as well, which is not a County entity so I want to make sure that VRE, as an entity, would have access for their communication needs.

Mr. Michal: To that condition we could add that the County and VRE may have the access as well. So I have no problem with that. We're into helping support public safety, as well as the railroad facility.

Mr. Hiron: Okay. Joey, it looks like you're taking notes. If you could remind me if a motion comes up on this, thank you.

Mr. Howard: Okay, any other questions for the applicant from anyone? Ms. Kirkman?

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Ms. Kirkman: So, the three towers that are proposed in the future are 351, 350 and 349?

Mr. Michal: That's correct.

Ms. Kirkman: So, we'll be seeing applications for those as well?

Mr. Michal: Yes you will. More than likely next year.

Ms. Kirkman: And could you explain... you keep talking about this is important for VRE coverage, but then you talk about residential access. What's your primary purpose here?

Mr. Michal: Well, let me just... generally, T-Mobile, as the other carriers, they're licensed for the entire area. So the federal expects us to get service as broadly as we can. Right now what we want to do is get service in this area which is more densely populated than some of those neighborhoods to the north where those other three sites are proposed. But that's my point of sort of getting ahead of things; knowing where there's broadband usages becoming. These facilities are going to be needed to provide service not only to VRE consumers but to the folks as less densely populated as it is who want to use their device there. So, frankly, this is a big investment that T-Mobile is making in that northern part of the County which is not as densely populated but they know the way the market is going with everybody... the number of smartphones that are on the increase, whether it's the Android, the iPhone, the Blackberry or the like, more and more subscribers keep growing. And what T-Mobile wants to do it keep pace with what the subscribers of growth is, both for the voice and more so now with the broadband internet. The other advantage is obviously T-Mobile has sales folks, I mean, there are folks that live in those neighborhoods I suspect who don't have broadband access now because they don't have FiOS or they don't have cable. And now, if we get this network up the way we'd like for it to be, then it's a terrific way we can say to people who live in the area, if you want wireless access to the internet, go out and get yourself a T-Mobile phone. It'll be there to serve you.

Ms. Kirkman: So, just to clarify... your target audience is the VRE rider or...?

Mr. Michal: No, here it's VRE because it connects back to a site that already backed as I mentioned before toward Fredericksburg, but it's also the residential areas on both sides of the right-of-way which is the case for the other three sites as well.

Ms. Kirkman: And how far will the coverage extend? So there's a pretty big gap as was pointed out by my colleague between 7FBU097A and your site 351.

Mr. Michal: Well, what we didn't show on the coverage map here is we're not showing the coverage that we're now getting and I'm not sure that the site on Leeland may be operational. Once that is, that whole area in and around Leeland will fill in with coverage about a mile and a half to the north of that. And so, you're reaching then back up to 351. And if we can get 351 at, let's say, a height of 190/199 feet, that's going to reach out probably two, two and a half miles. So, we're going to be coming pretty close to being able to connect and interface with the Leeland Road train station.

Ms. Kirkman: But if of those is about two, two and a half miles, that total is much... from 351 down to Leeland is probably closer to six miles or so?

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Mr. Michal: But remember, Leeland will speak out maybe a mile and a half, maybe a mile and a half, two miles, the other one coming back. When I speak two and a half miles, that's radius; so you're going two to two and a half miles in both directions from the site. So we would be reaching down toward Leeland. It may not be...

Ms. Kirkman: Oh, so it's really only about one, one and a half miles in each direction.

Mr. Michal: No, no... no, it's five miles.

Ms. Kirkman: Okay.

Mr. Michal: Yeah, it's five miles. And so what you look at, you get the best coverage maybe for two, two and a half miles. And as you get further away from the site, the signal degrades a little bit. So the area that might be three miles out, let's say from site 351 not quite connecting with the Leeland Road, the strength of the signal there may be weak and their service may not be as strong. But we don't live in the world thinking we're going to have perfect ubiquitous coverage. We can do the best we can to get the maximum coverage we can and serve as many folks as we can.

Ms. Kirkman: And this map does not include all towers in the area, only your towers?

Mr. Michal: That's correct.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Any other questions for the applicant? Okay.

Mr. Michal: Thank you Mr. Chairman.

Mr. Howard: Thank you. We'll now open up the public hearing. If there's anyone here from the public that would like to address the Planning Commission on this item, which is the two items to discuss which is items number 9 and 10 on our agenda; item 9 is the Comprehensive Plan Compliance Review for Telecom Tower and item 10 is the CUP, the Conditional Use Permit for the Telecom Tower @ Synan Road. You may step forward to the podium. State your name, address, and you have three minutes to address us. Seeing no one advancing from the audience, I will now close the public hearing and bring these two items back to the Planning Commission. Mr. Hirons, it is in your magisterial district.

Mr. Hirons: Mr. Chairman, I will open it up by making a motion. I will do these separately to start with the Comprehensive Plan Compliance Review first, COM1000119, for the Planning Commission to recommend approval.

Mr. Mitchell: Second.

Mr. Howard: Motion made by Mr. Hirons is seconded by Mr. Mitchell. Any discussion?

Mr. Hirons: I just want to speak to... this is actually, as cell towers go, this is a pretty darn good site for one. I think the photographs, although I agree I think with the point that Ms. Kirkman was getting to of the applicant providing the pictures rather than staff perhaps going out and taking pictures or at

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least being there when they do that is probably a fairly important point. But, I know this area pretty well. I don't live far from it and I travel past it every single day. I've visited the site and it's a really good site for a cell tower. Cell towers aren't the most popular thing in the world and I think, at some point, this County needs to take a look at our needs of towers, our existing towers, and make sure the Comprehensive Plan actually, how it addresses it, is a little weak in my opinion and I'd like to see that actually strengthen and have us develop a good solid Telecommunications Plan with regard to cell towers so we don't have these things dotting our skyline all over the place like we see in other jurisdictions. Obviously, we're a high growth area. T-Mobile is here today; I'm sure there'll be someone else within months and someone else months after that. We're going to get lots of these things and these cell towers do provide the needed broadband, if nothing else, that our citizens out in Hartwood and George Washington can certainly benefit from. So, this particular application is a good one; the location is good, so I'm happy to support it.

Mr. Howard: Any other comments?

Ms. Kirkman: Mr. Chair, I'm going to raise the same concern I raised a month or two ago when we had yet another cell tower application in front of us, which is that my concern is these things are quickly becoming Stafford's fastest growing crop and that every applicant comes in front of us and tells u why only their tower will work and no other tower will work for them. And so I am... for that reason, I really am going to oppose this because I think we really need a comprehensive plan for these things rather than approving every one that comes in front of us because no other one will work.

Mr. Howard: Thank you. Any other discussion?

Mr. Fields: Actually, I'd like to raise a question. I mean, we've had a pretty elaborate Telecommunications Plan. Jeff, I remember we worked on that for quite some time. Is that plan... is there a disconnect between the existing Telecommunications Plan and how the new technology or market demand for these things is going? Is that what we're seeing here? I mean, I don't mean to put you on the spot; I didn't prepare you for that question but, you know, so I want to give you a break there. But, I'm concerned about because I remember we did spend a great deal of time. I remember the Planning Commission worked very long and hard. My Planning Commissioner, Steve Pitzel, who was technically very confident in that field, I know spent a lot of time trying to come up with a fairly solid vision of that. So, where's the disconnect that we're getting? Are we getting a disconnect or is it... you know?

Mr. Harvey: Mr. Chairman and Mr. Fields, I believe our current Telecommunications Plan is dated. As Mr. Hess represented in the staff presentation that the Plan recommends towers be located three to five miles away, we knew back then that as technology changed and the prevalence of cell phones changed, we'd probably need to have more towers because the extent of use essentially overwhelms certain towers. So they said that you'd need additional infill sites. Our plan currently doesn't address that issue. This would be one of those candidate infill sites potentially and that is one issue that we need look at in the coming year with the Comprehensive Plan and some of our implementation efforts.

Mr. Fields: Thank you.

Mr. Howard: Okay, we're still in discussion. Hearing no one else signal for discussion, I'll now call for the vote. All those in favor of Mr. Hirons' motion which is a motion to approve the

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Comprehensive Plan Compliance Review for the Telecom Tower, T-Mobile Communications Facility signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The motion carries 5 to 2.

Mr. Hirons: Mr. Chairman, I will now make the motion to approve the Conditional Use Permit, CUP1000243, with the addition of, as we discussed and the applicant accepted, of ensuring that VRE has access to collocate on this tower as well.

Mr. Mitchell: Second.

Mr. Howard: Seconded by Mr. Mitchell. Discussion?

Ms. Kirkman: Mr. Chair, again, I want to repeat that I'm very concerned that we've had a number of these recently and we've just heard we're going to be getting three more within the next year and that we don't have any current plan for how we're going to handle this. And I really feel like our role as Commissioners is to make decisions based on a Comprehensive Plan for telecommunications and not on a case by case basis.

Mr. Howard: Thank you. Any other discussion? Hearing none I'll call for the vote. All those in favor of Mr. Hirons' motion which is approval of the Conditional Use Permit, Telecom Tower, as amended at tonight's meeting signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed say nay?

Mr. Fields: Nay.

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Ms. Kirkman: Nay.

Mr. Howard: The motion carries 5 to 2.

Mr. Hirons: Mr. Chairman... honestly Ms. Kirkman, I can't agree with you more on the... how did you put it? These things are becoming the crop of Stafford. I agree with you and I think we do want to have someone within the County to look at these things. Mr. Chairman, I don't know if it's appropriate now or if you'd like to wait until new business but I'd like to propose a motion that the Planning Commission encourages the Board of Supervisors to take this up to study the needs of the County with regards to cell towers, the existing cell towers, what's additionally needed, where they could help basically developing a Comprehensive Telecommunications Plan that's up-to-date.

Mr. Howard: Yeah, I think we would tell the Board that's something we have a desire to work on. We could make the motion and...

Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes Ms. Kirkman.

Ms. Kirkman: Actually, the County has a Telecommunications Committee which that would probably be the appropriate body unless people here want to start learning about all (inaudible).

Mr. Hirons: Yeah, I would even add, you know, encourage the Board of Supervisors to direct the Telecommunications Commission to take this up. I don't know if we want to direct them in that way or not; they may throw something back at us.

Mr. Howard: Well, I think where I was going is we can make a motion as the Planning Commission and request the Board of Supervisors either allow the Planning Commission to get involved with it or direct the Telecommunication Committee to work with the Planning Commission so we can incorporate elements of the Telecommunication Plan, which we did not do, into the Comprehensive Plan as an amendment and plan for the towers because I couldn't agree more. We're going to have these things pop up all over the place and that's not the right answer, unless we turn them into wind turbine electricity generators which I still think is probably not the right answer. There's too many. Just look at the map we were provided with this one applicant; it's unbelievable. So, if you're making the motion, we'll see if someone seconds it or if somebody wants to amend the language. But I actually think that's a good...

Mr. Hirons: Yeah, the motion is to encourage the Board of Supervisors to...

Mr. Howard: Well, do you want to encourage them or are you requesting?

Mr. Hirons: We can request them if we feel confident enough they won't throw something back if we request as opposed to encourage. Request the Board of Supervisors to take a look at the Telecommunications Plan and examine the need for cell towers as they exist and future cell towers and locations, and update the Telecommunications Plan to be with the time.

Ms. Kirkman: I'll second that.

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Mr. Howard: Okay, second by Ms. Kirkman. Any discussion?

Mr. Fields: I will say the problem is going to be, I hope we can solve it but I just will point out, as the applicant has stated, they plan to come back with three or four next year. Updating that plan takes a long time; it's highly technical. It's very complicated. Having gone through the last one you can see that by the time we got the plan done, it was already outdated.

Mr. Howard: Right.

Mr. Fields: I would encourage in our request maybe make sure that we understand the Board telecommunications, if the Planning Commission needs to help, whatever... you know... we need to figure out a way to at least get a working model because we are going to be presented then with having a telecommunications plan idea in the works and yet considering multiple applications before that plan is finished. And so we need to be thinking even if, I don't know that we have a resolution tonight, but we need to be thinking about the reality that we're going to be considering multiple requests for these towers long in advance of the ability to update the plan.

Mr. Howard: I think that's a fair comment.

Mr. Fields: So, I don't know whether we want to consider that at some point we want to put these on hold until we have a plan, because if not, we're going to have this exact same discussion several times next year.

Mr. Howard: You can amend Mr. Hirons' motion to include a moratorium on additional towers until such time the Telecommunication Committee has updated the plan. I mean, they could always tell us we're out of our minds.

Ms. Kirkman: Mr. Chair, I think we need to check with our County Attorney about our ability (inaudible).

Mr. Howard: Well, we're requesting that; they can always tell us no. But Alan, Mr. Smith, would you care to comment on that?

Mr. Smith: I'd probably need a moment to look at it in terms of a timeline.

Mr. Howard: Well, we can dispose of it by staying with Mr. Hirons' motion if there's no...

Ms. Kirkman: I think there's...

Mr. Hirons: I would actually accept that as a friendly amendment because I agree.

Ms. Kirkman: Yeah.

Mr. Fields: Well, to the extent practical, and I'm not opposed to working with the industry to find a solution on this, but I would encourage the... if to whatever legal extent practical we impose a moratorium on considering new Conditional Use Permits and Comprehensive Plans until we can craft at least the outline of a decent Telecommunications Plan.

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Ms. Kirkman: I think my concern is I'm getting, quite frankly, a little tired of hearing from applicants that we know there's another cell phone tower half a mile away but it won't work for us. And so, that's my concern is that, for whatever reason you want to speculate that nobody else's tower works.

Mr. Howard: These are all fair comments and, again, understand that we're not experts by any stretch in this industry. Mr. Smith?

Mr. Smith: Mr. Chairman, Mr. Harvey reminded me that the FCC shot clock is ninety days for an independent submission and I believe it's 120 days, although I could be off... 150... on collocations and the Comprehensive Plan Compliance Review is deemed approved if not acted upon with sixty days of a complete submission.

Mr. Fields: So, our desire for a moratorium is completely irrelevant. The FCC says if they want them, they get them. There you go.

Mr. Smith: And the Comprehensive Plan Compliance Review would also be a problem.

Mr. Fields: We can still ask to have a plan but, you know...

Ms. Kirkman: So, could you just clarify that? What does it mean that if they want them, they get them? Don't they have to get them as long as they meet the criteria for a CUP or a rezoning, whatever may be needed for that particular application?

Mr. Howard: I don't think Mr. Smith was...

Mr. Rhodes: He didn't say that; Mr. Fields did.

Mr. Fields: I said that. But that's my concern; I mean, does that mean that, you know... I assume that means that we have to act upon it. We can deny...

Ms. Kirkman: Right, act upon it.

Mr. Howard: We have to take action.

Mr. Fields: The Board can deny it.

Ms. Kirkman: I just wanted to clarify we have to (inaudible) deny.

Mr. Hirons: Speaking of working with the industry, Mr. Michal, I really enjoyed the conversation he and I had and he is really very knowledgeable in this. I think he may...

Mr. Howard: Well, I would love to have you up but we have other public hearings scheduled. We have two more.

Mr. Michal: It would take thirty seconds sir.

Mr. Howard: We're sort of in that process. I'd love to have you back when we tackle it.

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Mr. Michal: There is a shot clock rule and it essentially says that an application, once accepted, has to be acted on with 150 days.

Mr. Howard: Sir, we're in the middle of a hearing so I appreciate your desire to help and we're good. We have an attorney on staff and we've got it.

Mr. Michal: Okay, I will talk with Mr. Harvey.

Mr. Howard: That would be wonderful, thanks.

Mr. Michal: We've got a consultant that's worked with many counties on such plans.

Mr. Howard: And we'll look for those experts, trust me. Thank you. So, we have a motion on the table and we also have two other public hearings, so is there any other discussion on the motion? Hearing none I will now call for the vote. All those in favor of Mr. Hirons' motion signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0.

Ms. Kirkman: Did we have a friendly amendment around the moratorium on that?

Mr. Fields: Yes, I made the amendment.

Ms. Kirkman: I... I mean it was... we're... okay.

Mr. Fields: The moratorium with...

Ms. Kirkman: Within whatever is legally...

Mr. Fields: You know, there's a broad concept.

Mr. Howard: Whatever we can do; if it's only sixty days, it's sixty days. But I think bringing it to their attention in such a dramatic way hopefully will get the right actions going at the County level. It's approved, thank you. The next item on our agenda is 11 and we'll hear from Mr. Hess again on the reclassification of KAMCO LLC Property.

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11. RC1000305; Reclassification - KAMCO LLC Property - A proposed reclassification from R-1, Suburban Residential Zoning District to B-2, Urban Commercial Zoning District on a portion of Assessor's Parcel 20-109C. The subject area consists of 0.176 acres and is located on the south side of Garrisonville Road, just west of Dorothy Lane, within the Garrisonville Election District.

Existing R-1 zoning: permits residential development, primarily single-family dwellings, at a maximum density of three (3) dwelling units per acre.

Proposed B-2 zoning: permits high-intensity commercial uses intended to serve retail sales and service, and business and professional needs at a regional or countywide scale at a maximum density of 0.40 FAR. See Section 28-35 of the Zoning Ordinance for a full listing of permitted uses in the B-2 Zoning District.

Proposed Proffers: no proffers proposed. The Board of Supervisors is the applicant.

Comprehensive Plan: currently recommends the property for Suburban Commercial use. The Suburban Commercial designation supports commercial development that serves the immediate population as well as other residences within a half-mile radius. Suburban Commercial centers should be located adjacent to existing residential development densities ranging from three (3) to seven (7) dwelling units per acre. **(Time Limit: March 15, 2011)**

Mr. Hess: Thank you Mr. Chairman. Can I have the floor computer please? Staff brings to you tonight item number 11; it's a reclassification. It's RC1000305, KAMCO LLC Property. The applicant is the Stafford County Board of Supervisors. The Assessor's Parcel is tax map 20, parcel 109C; it's a portion of the property. It's approximately 1. ... excuse me, .176 acres. The request is to rezone this portion of property from R-1, Suburban Residential, to B-2, Urban Commercial. The existing use of this portion of the property is undeveloped and it is located on the south side of Garrisonville Road just west of Dorothy Lane. Here is a picture of the zoning map. As you can tell, the property is surrounded on all sides by Urban Commercial zoned properties. A little background history for you; in 1992 the R-1 zoned portion of the property was conveyed to a previous property owner. This occurred in conjunction with the development of Stonehill Estates. Prior to that time, Dorothy Lane was a private road. In order to meet the VDOT... or excuse me... in order to meet public street standards, Dorothy Lane was redesigned and reconstructed and the road was shifted to the east. In doing so, that left the R-1 zoned strip of land, leftover rather. It was a residual piece of property and that's what led the developer to go ahead and convey the property to the property owner of tax map parcel 20-109C. So, that's where we're at with this little sliver of property. As mentioned, it's an undeveloped piece of property. It does consist of existing sidewalk and you'll see a strip of vegetation. The B-2 that is on the rest of the property consists of a vacant office building. And, again, the access to the entire property is off of Dorothy Lane, not Garrisonville Road. Here is the aerial photograph showing this. Again, the strip goes along this side of the property. You probably really can't see it because of the red line, but there is a sidewalk right there and there is a vegetation strip that runs along the sidewalk. And of course, there's the existing office building with the entrance off of Dorothy Lane to get to it. Here's a picture taken across Garrisonville Road looking down south. There you see the existing office building. And this, of course, is to try to illustrate the strip which does have some vegetation here. There is your sidewalk and here is Dorothy Lane and the entrance is back off Garrisonville Road.

Ms. Kirkman: Excuse me, could I just ask a question?

Mr. Hess: Certainly.

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Ms. Kirkman: That picture... is that a sign advertising that the property is for sale?

Mr. Hess: I'm not quite sure if that is the case.

Ms. Kirkman: (Inaudible) zoned B-2 and there is a (inaudible) telephone number there?

Mr. Hess: Possibly yes.

Audience: Lease.

Ms. Kirkman: Lease?

Mr. Hess: A lease.

Ms. Kirkman: Okay, thank you.

Mr. Hess: Certainly. Here is the Land Use Map. Of course, this used to be the existing Land Use Map which we cited is Suburban Residential, calls for Suburban Residential land uses in this area of the County. It is located within the Commercial Corridor which runs along... I'm sorry, with the newly adopted Comprehensive Plan, this is the Commercial Corridor that runs along Garrisonville Road, so it is within that commercial corridor. And again, as mentioned, it's the Commercial Corridor within the Suburban Commercial designation, so the request is consistent with the Land Use Plan and also consistent with the existing zoning and development pattern, just looking at the adjacent uses around the property.

Mr. Howard: Mr. Hess, am I getting this right? We're talking about this one sliver piece of property...

Mr. Hess: Yes we are.

Mr. Howard: ... that is adjacent to a parcel that's already B-2? And then one sliver is...

Mr. Hess: It's a split-zoned property, so, essentially yes. The property as a whole is B-2 and R-1.

Mr. Howard: What would cause such a small piece of a parcel to...?

Mr. Hess: Right. That's what I explained earlier. In 1992, when the development of Stonehill Estates took place, it was a residual piece of property that was conveyed to the previous property owner of tax map parcel 20-109C.

Mr. Howard: Oh, alright. So then this person came in and rezoned for business on 610 and that piece wasn't considered at that time?

Mr. Hess: I believe the rezoning took place prior to the conveyance of the R-1 portion.

Mr. Howard: So it was conveyed as an R-1.

Mr. Hess: It was like a deed of gift, excuse me.

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Mr. Howard: Okay.

Mr. Hess: Yes. And it was again after the rest of the property was zoned B-2 so, at one time, tax map parcel 20-109C was all B-2 until the developer of Stonehill States conveyed the little sliver we're talking about tonight to that same property; again, it was split-zoned.

Ms. Kirkman: What year was that?

Mr. Hess: What year was...?

Ms. Kirkman: (Inaudible – microphone not on).

Mr. Hess: 1992. Moving along, with that, the evaluation. The positive features, when we say it was consistent with the Land Use Map, that's consistent with the established commercial and development pattern of the area. Again, this will now make the property as a whole, one consistent zoning district which will help for potential future redevelopment of the property on the site and there were no apparent negative aspects. With that, staff recommends approval. And because the Board of Supervisors is the applicant, there are no proffers involved with this rezoning. And with that, I'll take any questions.

Mr. Howard: How big is the combined parcel?

Mr. Hess: Overall it's 1.15 acres.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes Ms. Kirkman.

Ms. Kirkman: I have a couple of questions. First, you know, there have been some situations where the Board has been the applicant because of some sort of hardship on the part of the property owner. So, for instance, we had one in George Washington or Falmouth where it was a residence located on a commercially zoned property and they really were not in a position to pay property taxes on commercial and, in fact, they were living there. And the Board was the applicant in that instance. But in this instance, this property is assessed at close to a million dollars and clearly it's held by a corporation. And do you know what the Board's thinking was and why they chose to be the applicant in this instance... the discussion when they did that?

Mr. Hess: I'm not familiar with it but I think Mr. Harvey is.

Ms. Kirkman: Is there a hardship here that we're not aware of?

Mr. Harvey: Mr. Chairman and Ms. Kirkman, I'm not aware of a discussion about a hardship. I do recall a discussion with the Board is that they looked at this as sort of a clean-up issue because it's sort of a small dangling piece of zoning. But I don't recall any specific discussion as to what the specific concern was other than it was an administrative clean-up issue.

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Ms. Kirkman: Well, clearly it will dramatically improve the value of this property because it gives it road frontage now on two sides with a singly zoned property. So, that wasn't discussed at all in terms of...?

Mr. Harvey: Ms. Kirkman, no it was not discussed but I do know from looking at the Commissioner of Revenue's records, the property as a whole is taxed as commercial even though this small strip is residential.

Ms. Kirkman: And our Zoning Ordinance regarding rezonings requires a number of assessments including environmental assessments, traffic impact analysis, economic and fiscal analysis; I didn't see those in our packet. Are they in the file and we just didn't get copies?

Mr. Hess: No ma'am.

Ms. Kirkman: Where are they?

Mr. Hess: They were... well, first of all, the GDP was waived and a lot of the stuff, because of the sliver itself by itself cannot be developed by its own, there essentially is no impact from this one sliver itself because it cannot be developed. It can't meet any setback requirements. It's one of those things again that maybe because it's so small, by itself it's not developable.

Ms. Kirkman: So, none of the analyses that are required in our statute were done.

Mr. Hess: Again, the GDP was waived as far as the impact statement...

Ms. Kirkman: Yeah, I did see that and that's why I didn't ask for a GDP because I saw that they had been granted a waiver on that. But I wasn't aware that the requirements for the other assessments could be waived.

Mr. Harvey: Mr. Chairman, they are not in your staff report. We can prepare those statement.

Mr. Howard: Okay, that would be good. Joey, I forget... Mr. Hess, is Dorothy Lane... is that an actual road today?

Mr. Hess: It is.

Mr. Howard: Okay, and it's a two-lane, right?

Mr. Hess: Correct.

Mr. Howard: Okay. Any other questions for staff?

Ms. Kirkman: Mr. Chair, he is also I think representing the applicant as well.

Mr. Howard: I was going to ask if the applicant wanted to say anything else. So, any questions for the applicant? No? Okay. Hearing none I'll bring it back to the Planning Commission.

Mr. Rhodes: Public hearing.

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Mr. Fields: Public hearing.

Mr. Howard: Oh yeah, thank you. We now open up the public hearing on the reclassification of the KAMCO LLC Property. Anyone wishing to address the Planning Commission on this item may do so by stepping forward. You have three minutes; when the green light goes on you can start talking, the yellow light means you have a minute and then when the red light starts to flash... hopefully it will work this time... we ask that you conclude your comments. Anyone can address us at this point. You may do so by stepping forward. I just ask you to state your name and address. Seeing no one advancing towards the podium, I will now close the public hearing and bring it back to the Planning Commission. Mr. Rhodes, it's in Garrisonville.

Mr. Rhodes: Yes. Mr. Chairman, I don't know why we would want to make the staff do the additional work on really what is just this little sliver of land can't be anything by itself. It's not additional impact and therefore I'm making a recommendation to recommend approval of the reclassification.

Mr. Howard: Is there a second?

Mr. Mitchell: Second.

Mr. Howard: Second by Mr. Mitchell. We're in discussion.

Ms. Kirkman: Mr. Chair, I had an additional question for staff.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Harvey, had it been a private entity applying for this, what would have been the application fee?

Mr. Harvey: I don't remember the specifics but I think it's approximately \$3,500.

Ms. Kirkman: Okay, thank you.

Mr. Fields: Mr. Chairman?

Mr. Howard: Yes Mr. Fields?

Mr. Fields: Maybe Mr. Rhodes or those of you from this area are familiar with this. I just... Ms. Kirkman point out, you know, the Board does this for a number of reasons. I just don't understand the reason for this. What is it that the Board is accomplishing that couldn't have been accomplished outside of the Board being the applicant?

Mr. Rhodes: I don't know that they're accomplishing anything that couldn't have been accomplished outside the Board being the applicant. For whatever reason, the Board chose to be the applicant. I don't know of anything different that is uniquely being accomplished by them being the applicant. I do know that it is completely surrounded by the muffler shop on one side, by the little diner and the storage lot on the other side, by the gas station across the street, and the pub and the Urgent Care. It is an odd anomaly.

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Mr. Howard: And I'm more inclined to... I mean, I drive by it everyday. I actually thought it was still operating as Nick's Plumbing and Heating.

Mr. Rhodes: Yeah, me too.

Mr. Fields: Well, what is being prohibited or different... what changes about this property by simply now technically rezoning this little parcel? Does anything change or does something change? That's what I'm still not clear about. What is the change to the community? To the property itself? What changes by this little sliver of land being changed from R-1 to B-2?

Mr. Rhodes: As I understood it from the staff report, and we can certainly has staff comment to that, it's not calculatable in any other development at dealing with the site and it's a cleaning up to make it all commonly zoned and consistent with our Comprehensive Plan.

Mr. Howard: Well, I believe the property owner is currently paying taxes as though it's commercial property. I think what changes is he gets his parcel cleaned up.

Mr. Rhodes: To be able to use it for (inaudible).

Mr. Howard: He's paying the taxes on it but he can't use that, for whatever reason again I don't claim I understand that whole answer but he gets to use his property for what he's being taxed for.

Ms. Kirkman: Mr. Harvey, have there been any inquiries about the potential use of this property in the future?

Mr. Harvey: Staff was aware of one inquiry of possibly redeveloping the property for a medical office building.

Ms. Kirkman: And is this rezoning necessary in order for that to happen?

Mr. Harvey: I'm not certain.

Ms. Kirkman: Thank you.

Mr. Howard: Any other discussion?

Ms. Kirkman: Mr. Chair, I'm going to oppose the motion. Primarily, first and foremost, the application simply doesn't meet the requirements in our Zoning Ordinance, none of the required assessments are present or have been done. Secondly, I think it's somewhat egregious that the Board chose to be the applicant in this instance. This is clearly not a hardship case. I can't speculate on why it was done but I'm really rather concerned that the Board saw in its wisdom to be the applicant for a million dollar property owner. So, I'm going to oppose the motion.

Mr. Howard: Okay, thank you. Any other...?

Mr. Mitchell: Mr. Chairman?

Mr. Howard: Mr. Mitchell?

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Mr. Mitchell: Mr. Chairman, having sat on the Board, me and Pete... or Pete and I, I should say... the Board over a period of time made decisions based on what they thought was good for the County. The Board, because of their position, because of their stature, has the ability to be the applicant and I don't question it. There were a number of these that went through in my eight years. I think it's for the... like Mike said, you're cleaning up the whole corner, making it one entity. So, you know, the decision behind the Board to be the applicant to me doesn't matter. What does matter, I think, we're taking a parcel and making it a cleaned-up one entity.

Mr. Howard: Thank you. Any other comments? Okay, hearing none I will now call for the vote on Mr. Rhodes' motion which is to move for approval of the reclassification of the KAMCO LLC Property which is item RC1000305. All those in favor signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The motion carries 5 to 2. Thank you. We are now on item 12 which is also a public hearing which is the amendment to the Subdivision Ordinance, Section 22-190, Street Access of the Subdivision Ordinance pursuant to proposed Ordinance O10-57. And I believe Mrs. Hornung will be the one person from staff briefing us.

12. Amendment to Subdivision Ordinance - Amendment to Section 22-190, Street Access, of the Subdivision Ordinance pursuant to proposed Ordinance O10-57. Section 22-190 addresses street access and connectivity requirements. Proposed Ordinance O10-57 will repeal Section 22-190 because it was superseded by the Virginia Department of Transportation (VDOT) Secondary Street Acceptance Requirements (SSAR) requirements. Under VDOT's SSAR, newly-constructed streets must meet certain standards to be accepted into the secondary system of state highways for public maintenance. **(Time Limit: January 18, 2011)**

Mrs. Hornung: Am I timed? Hello Mr. Chairman, members of the Commission. The item you have before you is an amendment of the Subdivision Ordinance, specifically Section 22-190 which is Street Access. And the proposed Ordinance O10-57 is repealing that section. Some of the background of this item is that the Board of Supervisors referred it to the Planning Commission October 19th by Resolution R10-313. Last year, in 2009, the Virginia Department of Transportation had amended their Secondary Street Acceptance Regulations. And previously the localities in the Commonwealth, during the development process, any type of development for public streets were subject to the SSR regulations, Street Secondary Regulations, which had certain requirements. Last March the Commonwealth Transportation Board had amended those regulations and now they're called SSAR,

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which is Secondary Street Acceptance Regulations, that became effective July 1, 2009. During that time, and there's also in your packet specific administrative code sections that allow this, what I'm about to say, when there is an amendment in the regulations similar to what localities go through, up until they're effective, the option of developing under those regulations is at the discretion of the developer. If they know that a regulation is coming up and they want to propose coming under those regulations, they can. But up until that they're officially effective, they will be developing under the former regulations. Now, in the administrative code, or the code that's being cited, it states that for this particular item, developments that were submitted for review, accepted for review or even approved under the SSR regulations, they were not required to comply with SSAR even if they were approved after July 1, 2009. So that's why when, through the discussion process, we looked at several subdivisions and how they related to connectivity and this part of the regulations. We haven't had any subdivisions that have come to you yet that were submitted after that time or they would be under the new SSR. I don't recall that Patriot Ridge... no, it's possible; they would be coming under the SSAR regulations. The reason for repealing this section is that based on our number of lots on streets, our Ordinance requires a certain amount of connections for the streets. And by doing that, with the new SSAR, our Ordinance is in conflict. So by repealing that, we would require everybody to comply with the SSAR. Now, the reason for the statement in the Ordinance that it would be effective to all new applications is that there are some applications currently under review and we didn't want to approve this or have it be approved by the Board and then immediately every subdivision or any development that's building a public road that they would be required to come under the SSR after they've done their development and their design. So, by approving... adding that statement in the Ordinance that it's effective on a certain date to new applications submitted after that date, that helps so that there's no confusion and not requiring any existing developments under review or even after being approved by VDOT prior to County approval that they would be required to completely change their design after they've gone through the review process.

Mr. Howard: Okay.

Mrs. Hornung: And it's ready for your consideration.

Mr. Howard: Great. Are there any questions for staff on this? No? Okay... Mr. Fields?

Mr. Fields: I'm slightly confused here on the Ordinance that we're having...

Mr. Howard: Repealed?

Mr. Fields: Yes. We are adopting... we are simply inserting the VDOT standards is now our Ordinance, is that correct? Am I getting that correctly? The language? What language is now going into the code? Since we're striking out the whole number of lots, 22-190, what is the text that is going in the code as this is going out?

Mrs. Hornung: There is no text that is going to be replaced with this. This is being eliminated so that the requirements by the state would be automatically implemented and the County doesn't always repeat those verbatim in our Ordinance. We defer to state code, the Department of Transportation. So, if this were to stay, we would be in conflict with the state code. So by removing it, we are not in conflict and that any access requirements would default to the state code.

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Ms. Kirkman: But those... the VDOT access requirements are minimum requirements. So, if we actually required more access points, that would go above and beyond and they would meet requirements and it would not be in conflict with the VDOT requirements.

Mrs. Hornung: That is correct.

Ms. Kirkman: So, why wasn't the proposal to retain what we currently have and say something along the lines of "or VDOT, whichever is greater"?

Mrs. Hornung: There was no discussion to make the requirements more strict than what is already required by VDOT. I think in working with the Virginia Department of Transportation and the requirements for access and connectivity, it was felt that those standards were adequate to meet the requirements for access points on the public roads. And also it encourages inner-parcel connection, or basically mandates inner-parcel connection.

Mr. Fields: But... let me ask another question then. But by not even having it by reference, let's say, in the local code, does that take the authority to say whether the connectivity requirement is met then now rests solely with VDOT and it's completely out of the hands of the Planning Commission and the Board of Supervisors?

Mr. Harvey: Mr. Chairman and Mr. Fields, that is correct. Our Subdivision Ordinance specifies that all lots must be on a publicly maintained street; in other words, a state maintained street. So, we have to default to the VDOT standards for streets for their acceptance.

Mr. Howard: So, I know we have to have the public hearing; we'll open it up in a minute. But, just a question and, Mr. Smith, I don't know if you can answer this out loud but if an applicant did come forward and they were compliant with the VDOT regulations but we did have a different regulation, to Ms. Kirkman's point, where we were asking for slightly more than that, could we deny the application based on a... is that something in the Planning Commission's purview that we could say well our Ordinance has more requirements than that and you haven't met that?

Mr. Smith: Mr. Chairman, I'm not sure I can give you a definitive answer, but it would raise a problem. An applicant could argue that the County has no authority in this situation to impose any additional requirements that the CTB has established the requirements statewide and those are the requirements and localities have no authority to impose greater requirements. Our argument would be that while they may be more significant or heightened requirements, they don't interfere with the state's requirements and, therefore, we haven't done anything to interfere with the state regulation of the roads.

Mr. Howard: Okay, thank you. Are there any other questions? Okay, we'll open it up for public hearing. Anyone wishing to address the Planning Commission on Resolution R10-... I'm sorry, on the amendments to the Subdivision Ordinance which are before us which includes the several attachments but it's proposed Ordinance O10-57, actually the repeal of that and adopting the SSAR VDOT regulations may do so by stepping forward to the podium. And anyone going to talk on this tonight give me a little wave. Alright, seeing no one advance, I won't go through the normal routine and save some time. I will now close the public hearing and bring it back to the Planning Commission. Okay, Planning Commission, it's now in our hands.

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Mr. Fields: Mr. Chairman, I would like to... what is our time limit on this? January 18th?

Mr. Howard: Mr. Harvey?

Mr. Fields: I see... January 18th. I would certainly make a motion to defer, if not you know to the next meeting at least I would like an answer to the concept of where, what best suits the needs of the County if... is there a possibility of in any way having some part of the discourse and the approval still rest in the County as opposed to simply advocating all authority regarding this to the state agency? I mean, if that's what we're stuck with, that's what we're stuck with. It's not my preference to be honest with you. Not that these... I applaud these connectivity standards; they're great. There's no question about it; we've all been arguing... we know that greater connectivity is one of the key solutions to the traffic problem versus just simply making more miles of pavement. Connectivity is probably the most effective way of solving a great deal of suburban traffic problems. I don't want to sound in all that I don't think this is good, but I'm a little concerned that our code now regarding that simply because the streets are state streets, state roads, that we've completely lost any part of the process. So, I would like to make a motion to defer.

Mr. Howard: Is there a second?

Ms. Kirkman: Mr. Chair, I'll second that motion in part (inaudible – microphone not on) I do agree and I would feel far more comfortable with this if we were writing into our local code the requirements.

Mr. Howard: Okay. We're in discussion now. I have a question actually for staff. The table that you show on the second page, page number 2 in the handout where it's the connectivity index basically... Andrea, can you explain... so, just take Ruby Meadows for an example, sort of in the middle of the page. You're saying that this particular subdivision or project would not meet the requirements under the new SSAR. Is that what I'm... did I interpret that correctly?

Mrs. Hornung: Correct.

Mr. Howard: But it did meet the requirements under the County Ordinance because we approved that.

Mrs. Hornung: Right. It met the regulations in place at the time and what they was even though they had the site distance and all the widths, they had shared driveways.

Mr. Howard: They have several driveways, yeah.

Mrs. Hornung: Right, they share them.

Mr. Howard: Right, I remember it well, that's why I picked that one.

Mrs. Hornung: They weren't allowed to have thirteen but they had to share and so they cut it in half.

Mr. Howard: Correct. So, in this instance, which is what I want (inaudible), I think we probably had grounds to not approve that based on the connectivity index being an issue, from a legal perspective... I think. So, I don't want to go backwards, I'm just bringing that up as an example of the discussion. So, I'm going to support the motion because I would like the answer that Mr. Fields... to the question

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that he asked. So, I'll be supporting the motion. Any other discussion? Okay, all those in favor of Mr. Fields' motion signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed say nay? The motion carries 7-0. And we're back to item number 2 and I really appreciate your patience very much for waiting and you've waited weeks and now we asked you to stay even longer this evening; just a situation of circumstances. So, we're back up to item 2 and, Mr. Mitchell, we did ask a lot of questions and got some answers and there was lot of dialogue, and we were at a point where we wanted to wait for your input recognizing this is in your magisterial district.

2. *SUB1000107; Mount Hope Estates - Preliminary Subdivision Plan* - A preliminary subdivision plan for 16 single family residential lots on private well and septic systems, zoned A-1, Agricultural consisting of 57.93 acres located at the end of Mount Hope Church Road, approximately 3,700 feet west of its intersection with Brooke Road on Assessor's Parcels 39-25 and 39-46 within the Aquia Election District. ***(Time Limit: January 26, 2011) (History - Deferred at November 3, 2010 Meeting to December 1, 2010 Meeting) (Deferred at December 1, 2010 Meeting to December 15, 2010 Meeting)***

Ms. Kirkman: Could I just ask one more question regarding this application?

Mr. Howard: Yeah, sure Ms. Kirkman.

Ms. Kirkman: Were you the staff on this?

Mrs. Hornung: Yes ma'am.

Ms. Kirkman: There was quite a bit of discussion about the reserve drainfields being located in the power easement and even a suggestion for how that could be solved by consolidating some of the lots. Were any changes made to the plan to address that concern?

Mrs. Hornung: No, not up until now.

Ms. Kirkman: Okay, thank you.

Mr. Howard: So we started to hear from the applicant and I'm not sure if the applicant wanted to say anything else, recognizing your time was cut short there.

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Ms. Karnes: Again, Mr. Chairman, members of the Planning Commission and staff, my name is Debrarae Karnes and I'm representing the applicant. While we were discussing the issue of leachate, I think Commissioners Mitchell and Rhodes did not hear basically the summary of staff concerning the landfill engineer's recommendation or Tommy Thompson's recommendation. But, in summary of our position, landfill requirements are regulated by the state and they impose certain requirements for testing of leachate by the state of any residential well located within 500 feet of a cell. Based on all the information provided tonight, we believe that there is no reasonable, not any scant evidence of impact to the residential wells from the adjacent landfill. There is a note on the current plan that encourages the landowner to periodically test their well, but we think the landowners are adequately protected by the existing regulation and the existing ongoing testing happening at the landfill. We feel that this plan meets all County requirements for subdivisions and we're asking the County to move forward tonight to approve it. I will harken back to one of our earlier meetings when we were talking about another subject entirely and that would be the septic systems on three lots located within the Virginia Dominion Power easement. The engineering team for the applicant did look at the possibility of combining or otherwise consolidating lots but, quite frankly, they determined two things. First of all, they believe there is adequate protection for the individual lot owners even if, as discussed before, Dominion Power subsequently revokes the easement. And the adequate protection is, of course, we're talking about locations of reserved fields and the engineers have determined that these fields could be redesigned as alternative systems and still meet the County requirements and provide the landowner adequate space and reserve area for a drainfield. Number two, they looked at the possibility anyway of redesigning the lots and, to be quite candid, the economics do not work out. They need each lot in order to make this a going concern. They are... they continue to be willing however to record a copy of the easement with Dominion Power in the chain of title. And so, in both cases that we've talked about, in the leachate instance and in the septic field instance, the concern of notice to both the original purchasers and subsequent purchasers are being taken care of. Purchasers will be on notice that the drainfields of those three cases... those three lots rather... are within the easement area and they will be put on notice of the need or the recommendation I should say, not the need, but the recommendation for periodic testing of the water for the leachate issue. And we feel we've met Commission's concerns but we're willing to dialogue further if that is the Commission's wish.

Mr. Howard: So, Ms. Karnes, that will convey with the title? Is that how you described that? Did I get that right? That notification?

Ms. Karnes: The notice will be put on the chain of title so any subsequent purchaser, it will be recorded in the Circuit Court records, any subsequent purchaser who obtains title insurance which should be everybody...

Mr. Howard: Right, of course.

Ms. Karnes: ... will be put on notice because the title company will bring that issue up as part of their title search and notify the buyer and the buyer's mortgage company.

Mr. Howard: Thank you.

Ms. Kirkman: But is the notification that there's a power easement there because that's required anyway; that's recorded and conveys with the title anyway.

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Ms. Karnes: What will be recorded is the actual agreement between Dominion Virginia Power and the applicant that allows the placement of the septic fields within their easement. The same document that you guys reviewed, what, two weeks ago perhaps?

Ms. Kirkman: But wouldn't that... I thought legally that would have to be recorded anyway?

Ms. Karnes: I do not believe there's a requirement to record it in the chain of title or make any offer.

Mr. Howard: There's a requirement to record the power line easement if it's on that property, but there's no requirement that I know of to record that there's a septic reserve field. Is that what you're saying? I thought that's what you said, that...

Ms. Karnes: Yes.

Mr. Howard: ... you're going to put in there the wording that there's a septic drainfield or overflow in the power line easement.

Ms. Karnes: We are offering to record the actual contract between Dominion Virginia Power and the applicant allowing this subdivision to place reserve septic fields of certain identified lots within the Dominion Power easement.

Mr. Howard: Okay. And then on the well testing, what is it that will be said for that?

Ms. Karnes: The note reads that periodic testing...

Mr. Howard: But how is that... so, in other words, it kind of makes sense to me having purchased homes in the past; I get that whole power easement or an easement, I always look for that. It shows up in the title. How is this going... I don't understand how this is going to appear on the title search.

Ms. Karnes: It will not be on the title search. This is currently identified on the plat that goes with this subdivision.

Mr. Howard: Alright, so that's different. Mr. Smith, how do we actually know that that happens? I mean, the applicant is reputable; I'm not questioning that. I just want to understand from a, really from an optics perspective, how do we know that that occurs? We don't really know that, do we? I mean, we're putting it in as a condition of approval but how would we follow-up on that? We can't follow-up on that.

Mr. Smith: Are you speaking to recording the encroachment agreement in the land records?

Mr. Howard: Yes. Specifically for the drainfield reserves.

Mr. Smith: Other than making some aspect of the development contingent upon recording the agreement or adding a note to the plat, that wouldn't... putting the note on the plat would constitute an agreement that they will record it.

Mr. Howard: Right.

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Mr. Smith: Now, how do you hold them to do it at any particular time would be making some aspect of the development contingent upon that.

Ms. Kirkman: But also, Mr. Chair, you raised this in the context of the recommendation for testing.

Mr. Howard: Right.

Ms. Kirkman: And that only goes on the plat, so if somebody were to purchase a property and do a title search...

Mr. Howard: It wouldn't show up in the title search.

Ms. Kirkman: ... it wouldn't show up.

Mr. Smith: Mr. Chairman, Ms. Kirkman, it should show up in the title search. I don't know how the title search company would reflect it. It will be recorded, the plat will be in land records, and if you took the title chain all the way back to the beginning, you would get to the plat and it would be on the plat.

Mr. Howard: Somebody would have to know how to look for that; that's the issue.

Mr. Smith: And it just depends on the title search firm and what they reflect in their actual title report. But it would be in the chain of title.

Ms. Kirkman: And, Mr. Chair, I guess I'm having a really hard time seeing how this meets our drainfield requirements since we have an agreement from Virginia Power that says "we can take the drainfield away at any time". So, they're required to have a reserve drainfield but we've got the owner of the area saying we can take it away at any time. So I just don't understand how that meets the requirements of our drainfield ordinance.

Mr. Howard: Mr. Smith, does that compromise the ordinance from a legal perspective?

Mr. Smith: Ms. Kirkman, Mr. Chairman, my understanding is that the determination for the drainfield is the purview of the Health Department and Mr. Harvey, I'm sure, can correct me if I'm wrong, but the County defers to the Health Department to determine the adequacy of the drainfields. And, in that case, my understanding is that the Health Department has determined that they will permit reserve drainfields in these types of easements and they have determined that that's adequate for a reserve drainfield.

Ms. Kirkman: But, just to carry that analogy a little further, we have an ordinance that says you cannot locate your drainfield on a separate property. The Health Department could go out there and say this is perfectly adequate as a drainfield. But it is still in violation of our ordinance because it's located on a separate property. So I think, although we all recognize that it's the Department of Health that manages the whole AOSE process, my understanding it's the Planning Commission and/or staff that determines whether or not the requirements of our ordinances have been met.

Mr. Smith: Yes, Ms. Kirkman, you are correct. It is the Planning Commission that determines whether the County's Subdivision Ordinance requirements have been met.

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Ms. Kirkman: Thank you.

Mr. Howard: Well, staff has obviously made a recommendation and I'm assuming they, Mr. Harvey, that staff is indicating they believe it is in compliance; is that correct?

Mr. Harvey: Yes Mr. Chairman. The plan does show primary reserve drainfields in accordance with our standards in our ordinance.

Mr. Howard: Okay. Alright, is there any other discussion, questions, for the applicant?

Mr. Mitchell: Mr. Chairman, could I have Andrea address that issue that Ms. Kirkman brought up please?

Mrs. Hornung: About the drainfields in the easement? The easement is not a separate parcel; the easement is just someone who has control over that part of the property for their use. And there's that agreement there between the owner of the property and the easement holder. So, whenever you have easements on your property, that means that they can come in, put in their utility, whatever they have, but technically if they disturb it they're supposed to put it back to equal or better.

Mr. Howard: Okay. Alright, thank you Ms. Karnes; I appreciate that. Are there any other questions for staff at this point? No? Okay. So, Mr. Mitchell, I think this is in your magisterial district, the Aquia.

Mr. Mitchell: Mr. Chairman, I have read a lot about this and I've looked at the documents presented by the applicant. I've looked at the answers coming from our staff. I've looked at what our own County tests for twenty major entities that could possibly pollute water. Talking with the information that we're getting from the landfill that it is almost an... not impossible... but almost an impossibility to have a contamination go this far away. The County itself has groundwater wells all around their site to verify that nothing is leaking out, nothing is leaching, and also the one thing that really I think is important is the map of the Draper Aden Groundwater Management Study shows that the Mount Hope Estates site is way away from the recharge area. So it's not a major source where the water would be recharging. With all of these things involved, I would make a motion for approval of SUB1000107, Mount Hope Estates Preliminary Subdivision Plan.

Mr. Howard: Is there a second?

Mr. Rhodes: Second.

Mr. Howard: Okay, we're in discussion. Mrs. Hazard, I think Mr. Mitchell... did you want to discuss some more?

Mr. Mitchell: No, please, I would yield to the young lady.

Mr. Howard: Okay.

Mrs. Hazard: Oh, well thank you; makes me feel very good. Although I am happy with some of the things that the applicant has come forward with, I must say and I think it has been obvious I am very troubled that we have things in here that say that it's recommended that we are to periodically test

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water, that we do not have I know the authority or the ability to say that those homeowners will find out about that requirement. I am very concerned about notice in general. It seems like that is something on this Board since I have sat on it; we have a lot of issues about getting notice to current homeowners but also future homeowners. To me this is a health issue; it says that it is recommended that not just the lots that, as I read this, sit around the landfill, it seems to apply to all sixteen. So, somebody, it appears, in the Health Department, has this concern and as a County it appears that we don't have the mechanism or that there is not a way that we can enforce this. Although the applicant has said it will be on a plat, I read plats every day and now everything is done scanned; it comes in a copy about this size. That plat that we have looked at tonight comes on something about this size. Believe me, reading it, even with your zoom, is pretty tough. I know that no homeowner will ever find this. I do believe that the homeowners will find the ones especially if it is recorded in their chain of title with their encroachment agreements and that encroachment agreement is good notice to them. So I do applaud the applicant for wanting to put that in there. But I just cannot vote for it tonight with this thinking that these people in the future will not be able to know that this is a requirement.

Mr. Howard: Okay, any other discussion?

Mr. Mitchell: Mr. Chairman, if I could address that. I think that anybody that purchases land looks, or at least should look, at what is close to their property. I worked on a nuclear site up in Ohio; everyone knew it was a nuclear site. It wasn't a hidden secret, there was a big sign. It was the U.S. Department of Energy Gas Centrifuge Enrichment Plant in Piketon, Ohio. By the same token, the landfill is duly noted. It's advertised on TV; every night I'd watch it... when the Board of Supervisors go in recess, I get to watch all the advertisements of County issues. But I do believe that anybody purchasing a piece of land would be fully aware that there is a landfill within 2,000 feet. And the maps we looked at were 2,000 feet and the closest that the, I believe it was cell G... I'm going from memory... but I believe cell G, the closest would ever be is like a thousand feet. So I think there's still the acknowledgement that whenever you buy land you at least know what's around it. This County building here was built right on the corner where there was an old gas station. Many of you may not know that but between the 7-Eleven and the flagpole on the front of the building there was an old gas station. So, I'm aware of it. I've lived here twenty-three years. But I'm also aware of the landfill because I go there every Sunday. If you ever need to see me, I'll be there on Sunday. So, I believe in my heart that in all the good faith that has been put forward, all the presentations, all the issues that we've looked at, I don't think there's a soul that would come... even you could bring someone in from a different state, they would realize, buying a piece of ground, they would realize that it's close to a landfill. And I think their attorneys would tell them it's close to a landfill. So, I think being close to a landfill is a... it's a unique term because when I say close, right now it's 2,000 feet away, which is about forty percent of a mile roughly. And then, at some future date, it could be thirty years, it could be fifty years from now, they may decide to put in cell G. But the cells will last a long time. The cells can go up I think, and I may misquote this, I think 100 or 150 feet. But the landfill has one right now that is up to pretty much the actual height. So, I think with all the information, with all the testing that the County's doing with all the groundwater monitoring, it's done on a constant basis and I think it's a situation where I think our presenter has done it in good faith and tried to make a very quality subdivision.

Mr. Howard: Okay, any other discussion? Mr. Hirons?

Mr. Hirons: I just want to respond a little bit to what Mr. Mitchell just had to say. I don't really like this application; there's no other way to put it. And as much as any because the proximity to a landfill. There's no one who's going to be buying a home who's not going to realize there's a landfill there.

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However, someone who's buying a home may not understand and realize the risk that they be encountering living that close to a landfill. We're talking about distances in feet. If we were talking about distances in miles, it wouldn't be much of an issue for me. I, like Mr. Mitchell and Mr. Fields, served on a land use board in another jurisdiction but the equivalent to the R-Board. I had the opportunity to learn quite a bit about landfills during that time. They are amazing technological feats of the last half of the last century and probably the first part of this century as well. I'm sure there are a lot of advances that have been made. My concern, you do that much testing and have that much concern and prepare yourself so much because you know there's a risk. You know there's a risk of rupture, you know there's a risk of failure. And it's just something I'm not comfortable enough with. You know, your meteorite example last week... that's a legitimate risk folks live under. However, that risk is so minimal I think most people are willing to accept it and not put a huge canopy over the earth and avoid meteorites. But the risk here, it's obvious; there is risk. And so I'm significantly concerned about this application.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: First, I do want to thank the applicant for both the efforts they made in terms of working with the Friends of Stafford Civil War Sites, as well as offering to record the agreement with Virginia Power. However, Mr. Chair, my concern is we've had a pretty glaring example in the County of how people did not anticipate the ways in which power line easements were going to be used in the future. And I just simply do not believe that locating a drainfield within an easement when the owner of that easement has stated quite clearly they reserve the right at any time to require the removal, at the property owner's expense, of the encroachment, meaning a drainfield, meets the requirements of our drainfield ordinance. So, while I also share the concerns about the location and believe it doesn't meet our requirements for general health and welfare, I specifically do not believe that this application meets the requirements of our drainfield ordinance. And I will be opposing the motion for that reason.

Mr. Howard: Thank you. Any other discussion from any Commissioners? Mr. Fields?

Mr. Fields: I share all my colleagues' concerns. I also will be opposing it specifically based as the same reasons as Ms. Kirkman is. Having seen so many permutations and so many negative things happen regarding drainfields and reserves and uses of alternative systems and how difficult it is to be ahead of that, no matter how... again, I think the applicant is doing the best they can. In that sense, they're making the notice. I applaud them for their efforts. I don't want to sound like I'm at all contemptuous of them; I'm not. I think in the reality of how what you can know and what your level of expertise and ability to understand permutations in the future are for any even reasonably diligent homeowner is that I believe Ms. Kirkman is correct not only on a broad level but on a very technical level. I think if you can revoke the right to have part of that drainfield, the re-engineering of that drainfield will require uses of alternative things and particularly uses of alternative... perhaps siting and our technologies that are not contemplated in the approval of the plan, I don't think that complies with our drainfield ordinance. So I will be opposing it for that reason.

Mr. Howard: Thank you.

Ms. Karnes: Mr. Chairman, if I may.

Mr. Howard: We're actually in the motion so I'm going to not allow that. But I will allow you to address us once the vote is cast. I share the sentiments of many of my fellow Commissioners on this

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one. This is a tough one because you obviously feel as a Planning Commissioner that you need to be thinking about the safety and welfare of all citizens and, in particular, those who may be new to the County or may be buying a first home and you've got to think through that. On a variety of levels, I felt a little more comfortable when Mr. Thompson went through some of the detail earlier. I felt even more comfortable when Mr. Fields, at the last meeting, indicated that he felt it would be very, very difficult for leakage from the cells and, in particular, described how more advanced the technology is for the cells and the landfill. And this is a tough one for everybody I think to try to get through. And again, the applicant I think has done a very good job. I'm not sure there's anything different the applicant can say or do at this point; it's a fait accompli but I'm going to actually vote for it because I'm not sure on a legal basis we have... I've listened to the County Attorney, I've listened to the staff... I'm not sure that we have, from a legal perspective, I'm not sure we can deny the application based on some of the rationale that we've discussed and obviously we'll see how the vote goes. But I will vote to support it just because I think it puts the County in a fairly compromised position to not vote yes in this particular case. I clearly share a lot of the same concerns but those are not concerns from a legal purview that the Planning Commission can regulate. So, I wish it was but it's not. I will now call for the vote. All those in favor of... Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, about a week ago I downloaded the specifications from the internet of the TSA Scanning Machines. In the information I found, the x-rays can go from two seconds to ten seconds. You stand a better chance of being harmed by a TSA x-ray machine than you do being harmed from any leak or anything coming from the landfill which is wholly monitored, solely monitored and our engineers at the landfill take specific pride knowing that they operate one of the safest most wonderful landfills, and one of the few free landfills left in the Commonwealth of Virginia. But I did not several things that this TSA machine, and I'm using it as an example. The TSA machine can put a light x-ray or they can put a heavy x-ray. The heavy x-ray will show your physical body; all you need is some flesh paint and you can paint the person. On the light effect, it looks like a bunch of kilowatts up and down. So, I present to you tonight, and I say it in all sincerity, you'll suffer more radiation, you'll suffer more harm flying to your next destination than you would of living thirty years in this subdivision.

Mr. Howard: Thank you.

Ms. Kirkman: Mr. Chair, I do want to say I... as someone who's been something of a stickler for the law, I appreciate your concern for meeting the requirements of the Subdivision Ordinance and what the scope of our authority is. I believe, and I didn't have a chance to pick up my copy of the code, I do believe there's some general requirements about safety and welfare with sort of boilerplate language, but I do think specifically one of the requirements that we're asked to look at is whether or not they've met the requirements of all the Stafford County code including the drainfield ordinance. And so, there is, I think, something that we can specifically say to them that needs to be fixed about this plan.

Mr. Howard: Yes, and I appreciate that. And you were very clear on your rationale in terms of the drainfield as being a different reason than others had expressed. So I understand that. Okay, I will call for...

Mr. Rhodes: Mr. Chairman?

Mr. Howard: Yes Mr. Rhodes.

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Mr. Rhodes: Just to circle back, I thought we had asked the question of Mr. Harvey just to confirm that it was staff's opinion that they had met the requirements of the ordinance for the drainfields and they had made the affirmative statement as I recall. So I think that that one issue has been addressed.

Mr. Howard: Thank you.

Ms. Kirkman: Mr. Chairman, actually although the staff under our statute makes an opinion regarding that, it's the authority of the Planning Commission to make the decision about whether or not the requirements have actually been met.

Mr. Howard: Correct. And in this case, Mr. Rhodes is stating what staff said and, like myself, we are accepting that as the interpretation. So, I appreciate that. Okay, I'll call for the vote. I know this is a tough one for everyone. So, all those in favor of Mr. Mitchell's ordinance which is approving the subdivision 1000107, Mount Hope Estates Preliminary Subdivision Plan signify by saying aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Howard: Aye. Opposed say nay.

Mrs. Hazard: Nay.

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Hirons: Nay.

Mr. Howard: I think I caught a 4 to 3, I'm not sure. I'll poll the Commission please. Mr. Rhodes?

Mr. Rhodes: Aye.

Mr. Howard: Mrs. Hazard?

Mrs. Hazard: Nay.

Mr. Howard: Mr. Fields?

Mr. Fields: Nay.

Mr. Howard: Mr. Howard was an aye. Mr. Mitchell?

Mr. Mitchell: Aye.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Nay.

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Mr. Howard: Mr. Hiron?

Mr. Hiron: Nay.

Mr. Howard: So it was a 3 to 4; it did not pass. Yes?

Ms. Karnes: Yes, under...

Ms. Kirkman: Mr. Chair, we're not done yet. We have to... I believe we have to make a second motion which is regarding denial because I believe under the subdivision ordinance we now have to make a motion to deny and cite the specifics that the applicant needs to correct. And then because it's in response to a denial, that should they choose to reapply, there's an expedited process for them to do so. And they have to address the specific things that have been cited and the reasons for denial.

Mr. Howard: Yes, you're correct.

Ms. Kirkman: So I think we need to finish the process.

Mr. Howard: Is that what you were going to tell us?

Ms. Karnes: That's exactly what I was going to say.

Mr. Howard: Alright, so we need a motion then for denial.

Ms. Kirkman: Mr. Chair, I'll make the motion for denial with specifically that the applicant, by locating reserves in the easement when the easement owner has stated they have the ability to require removal of those encroachments does not meet the requirement for reserve drainfield. And that the applicant, in reapplying, needs to relocate the reserve drainfield... well, drainfields outside of the power line easement. Or have Virginia Power alter the terms of the agreement. Secondly, the applicant needs to comply with the requirements to the extent to which we can make them require regarding safety and welfare, and the particular concern was the well testing and conveyance of the need for that.

Mr. Fields: Second.

Mr. Howard: Second by Mr. Fields. Any discussion? Stacie, did you catch that?

Mrs. Stinnette: Yes sir.

Mr. Howard: Okay.

Mr. Rhodes: So, how do they meet the second one Mr. Chairman?

Mr. Howard: Well, we're in discussion Mr. Rhodes and, to the extent possible, you know, as I indicated earlier, I'm not sure what else the applicant can do in that regard. So, some of that is up to the interpretation of the Planning Commission itself as a whole and, in this case, the Planning Commission, or the majority of the Planning Commission, does not feel like that was met. So, to give

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them a specific answer in terms of what could be different when they come back, I'm not certain I know that myself.

Mr. Rhodes: I was just trying to get a sense of that. I'm sure they will come to staff and ask how and since staff wasn't of the same opinion, I'm trying to get a sense of how we address that.

Mr. Howard: No, that's a fair question because it's a question that does have to be answered. I don't know the answer.

Ms. Kirkman: I don't know exactly what the solution is and actually I don't think we're required to provide the solution; I think we're just required to provide the reason for denial. But I would certainly suggest to the applicant that if they could find a way to incorporate in the chain of title the recommendation of the Department of Health for periodic testing that that would not completely align my concerns but it would go a long way towards it.

Mr. Fields: I would also... Mr. Chairman, I also might add that we've had some information, you know... ultimately as was cited in the information that we had today on the issue, DEQ is ultimately the final regulating authority and they haven't been involved in an advisory capacity at least as far as this Planning Commission goes in resolving this issue. So, it may be that we have to work collectively with the applicant in a reapplication or a resubmission, but with the help of the appropriate individuals from DEQ who have both... and perhaps, I know we got some information from the R-Board but with the people from the R-Board too for the people who have the technical and regulatory expertise to nail this down.

Mr. Smith: Mr. Chairman, for the Commission's consideration, the statute does say if the local agent or Commission does not approve the preliminary subdivision plat, the local agent or Commission shall set forth in writing the reasons for such denial and shall state what corrections or modifications will permit approval by such agent or Commission.

Mr. Howard: Correct. And actually Ms. Kirkman did a good job of referencing that herself. So we would have to explain, and I think Ms. Kirkman started from her perspective on some of the safety and welfare concerns. The drainfields were easy; remove them.

Ms. Kirkman: Or, I suppose, alternatively have Virginia Power agree to different terms...

Mr. Howard: Right, and you said that in your motion.

Ms. Kirkman: Yeah, so that one's the easy one. And I suppose, Mr. Attorney, if we have to give specific...

Mr. Howard: Yeah, because that one's a little more ambiguous.

Ms. Kirkman: Then I would say the thing that comes right to mind, unless my colleagues have a different suggestion, is that the applicant find a way to incorporate into the chain of title the recommendation for periodic testing. Did my colleagues have any other suggestions regarding that?

Mr. Howard: Mrs. Hazard?

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Mrs. Hazard: No, I think even though we are supposed to give out the reasons why, I too, and maybe I am overstepping, but to right now lay out exactly what the answer is I felt that Mr. Fields laid out this may be a cooperative effort. If we begin to see these... if there is more development around the landfill... we're going to need to know who is the regulator. If DEQ... you know, who do we need to be talking to to get this work forward.

Mr. Howard: I guess the caution, Mrs. Hazard, and Mr. Smith can correct me, we have to keep within the Planning Commission's purview because the majority of the Commissioners have denied the applicant so we have to put it in context that we would be able to approve it based on the changes, as related to our ordinances. It's a great suggestion Mr. Fields had; I'm not sure that that's in our ordinance though, that requires an applicant to go out and seek a third party arbitrator, for lack of a better way of saying it.

Mr. Fields: I was just trying to point the applicant in the right direction.

Mr. Howard: No, and I appreciate it.

Mr. Fields: (Inaudible) coming up with a solution.

Mr. Howard: Yeah.

Ms. Kirkman: For some reason I thought we were under a time limit on this application, but I think that was actually the previous subdivision. And in light of that, I think we have time; we don't have to make a decision tonight which I did not understand was the case and so we do have time to give the applicant to actually work on this.

Mr. Howard: What is the time period on...?

Mr. Rhodes: The 26th.

Ms. Kirkman: It's January 26th.

Mr. Howard: January 26th? So we do have two more meetings but we've... well, we have a motion on the table we have to dispose of and we're still in discussion so we can still have the discussion.

Ms. Kirkman: So, you know, I would be willing to with...

Mr. Howard: To withdraw that?

Ms. Kirkman: Well, to... can't we just postpone the vote?

Mr. Howard: Absolutely. We can postpone to a particular date.

Ms. Kirkman: I would be willing to postpone the vote on the motion until our second meeting in January?

Mr. Howard: I think it's the 18th, is that right?

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Ms. Kirkman: The 18th?

Mr. Howard: Is it January 18th? The 19th?

Ms. Kirkman: The 19th? If the seconder will agree to that.

Mr. Fields: Certainly.

Mr. Howard: Alright, so... let me think about this now. You amended your own motion.

Ms. Kirkman: Well, I think I'm doing a subsidiary motion to postpone the vote on the motion which is different than amending the main motion.

Mr. Howard: That's correct. That's the term we needed to use, subsidiary.

Mr. Fields: Subsidiary motion.

Mr. Howard: Okay, so now we're in discussion on that. Is there any discussion on that? Okay, so it's clear to everyone; the vote on that is giving the applicant time before we vote on Ms. Kirkman's motion so they would have two more meetings before we would vote on the motion. That's exactly what we're talking about. Okay, so all those in favor of the subsidiary motion that's on the table signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed say nay? The motion carries 7-0. So the other motion does not get discussed right now. But, Ms. Karnes, you have the foresight of knowing what was on our mind I suppose.

Ms. Karnes: I have one question for clarification if I may.

Mr. Howard: Absolutely.

Ms. Karnes: I heard you loud and clear on the drainfield issue. On the leachate issue, I'm a little confused as what you're looking for. We can certainly explore putting it on the chain of title.

Mr. Howard: That's what was asked as the remedy in her motion.

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Ms. Karnes: Okay.

Ms. Kirkman: And I will say that I think this now gives us time to also not bring them into the process, but I don't know that there's anything that DEQ can do in regards to this. And I just...

Mr. Howard: Somebody can ask the question, right?

Ms. Kirkman: Yeah, we can ask the question. And we'll certainly communicate to you in a timely manner.

Mr. Howard: But that should be staff's responsibility and certainly you have every right to do that as well.

Ms. Karnes: Okay.

Mr. Howard: I don't think we can require you to do that.

Mr. Fields: I assume that probably in the history of DEQ's regulation of landfills in the Commonwealth, this thing as this has come up before. And so I bet you there's a precedent that (inaudible).

Mr. Howard: Yeah, I would think so.

Mr. Hirons: Take a look to the north.

Ms. Kirkman: (Inaudible – microphone not on.)

Mr. Hirons: I don't know and Ms. Karnes, you may recall actually, there was some similar issue in Prince William County...

Ms. Karnes: At a private landfill?

Mr. Hirons: No. They're public landfill, early 2000's... actually I think it may have occurred in the '90's; a subdivision off of Minnieville Road and something similar. I can't recall any specifics and that's why I didn't really want to bring it up because I just remember some discussion. The members on that landfill board, the (inaudible) Citizen's Advisory Committee always were very, very concerned and very conscious of this type of situation.

Ms. Karnes: Okay.

Mr. Howard: Okay, thank you very much. I appreciate your patience on this. And thank you Planning Commissioners; you handled yourselves very, very professional. I appreciate that. Okay, we are now onto the Planning Director's Report. Mr. Harvey?

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. Yesterday the Board of Supervisors approved the Fairfield Inn applications. They did that with modifications to condition number 4 of the Conditional Use

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Permit. Specifically, condition 4 is modified to stipulate that the proposed eight foot tall fence along Derrick Lane would be placed on the existing grade. There were some concerns after a site visit to the property that there may be some excavation that would occur that may impact elevation of the ground where the fence would be place, so that modification was made to the condition to address that concern. The Board also, last night or yesterday, continued the public hearing on Stafford Lakes Service Center. That's a Conditional Use Permit for vehicle fuel sales. VDOT is very close to finalizing their design for the Route 17 project. The applicant and staff met with VDOT and discussed potential impacts to the design. VDOT indicated that there may some allowance to allow some of the Phase 1 improvements within the right-of-way under permit. VDOT is looking at acquiring the right-of-way beginning probably in July of next year and the process would take about eighteen months. There was some question as to whether Phase 2 may be impacted by the right-of-way take; that's still unknown so that was something that was waiting VDOT's final design of the intersection improvements to determine if Phase 2 is viable or not. Then also I'm pleased to announce that yesterday the Board of Supervisors adopted a new Comprehensive Plan for the County. It's a twenty year plan document. They did make modifications to the Plan; they deleted the Brooke and Stafford Station UDAs from the Plan and had asked that a joint committee of the Board and Planning Commission be convened to determine where in the County to reallocate those dwelling units. And finally I'd like to wish the Planning Commission a very Happy Holidays and looking forward to working with you next year.

Mr. Howard: Thank you Jeff; I appreciate that. Committee Reports? Well, County Attorney's Report, Mr. Smith?

COUNTY ATTORNEY'S REPORT

Mr. Smith: No report Mr. Chairman.

COMMITTEE REPORTS

Mr. Howard: Okay. Committee Reports? I know there are... I guess Mr. Harvey gave the updates earlier in the meeting to indicate that we had asked for more time and those committees were granted the extension of time. In terms of the Chairman's Report, as Mr. Harvey just indicated, the Comprehensive Plan passed and there was a lot of work and effort that went into this document over four and a half years, and I can't thank every member on this Commission enough, as well as the staff of the Planning Department here in Stafford County. Everyone, whatever your opinion was, you had the best interest of Stafford County in your heart, you kept it there and you tried as hard as you could to make sure that that document reflects all the right things. And I think it's, I said it before, I think it's about an eighty percent document; I think sixty-five percent of the document hasn't changed and I think we forget about that that all those people who started working on that document years ago really created a great foundation. And things changed, you know, for a variety of reasons. But I hope you feel good about the outcome and it wasn't easy. It was definitely not an easy path to get to the place where it got to last night. And again, I think the Board of Supervisors and also everybody sitting up here on this dais and the staff that's not represented here tonight. Mr. Harvey, in his update, indicated the need for a... and this is what was actually passed... so there's a need for a joint committee. I would like to request that Ms. Kirkman and Mr. Mitchell serve on the committee to work with the Board of Supervisors committee to review and evaluate where those 4,000 dwelling units will end up in the six UDAs that were included in the plan, if I have their consensus.

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Ms. Kirkman: Well, Mr. Chair, thank you for the vote of confidence but I'm going to be declining.

Mr. Howard: Okay, thank you. Mr. Mitchell?

Mr. Mitchell: I accept. Mr. Chairman, I accept the challenge.

Mr. Howard: Okay, so I will, throughout... and the reason I selected those two Commissioners is their Supervisors are serving on that committee so that seemed to make sense. I'll throw it out there then if anyone is willing to volunteer participate? Don't all raise your hand at once.

Mr. Hirons: Lord knows I love committees.

Mr. Howard: Alright Mr. Hirons.

Mr. Hirons: I'm willing to but... Mr. Fields, would you...

Mr. Fields: No thanks.

Mr. Hirons: ... step up? Yeah.

Mr. Howard: Okay. So it would be Mr. Hirons and Mr. Mitchell. And that was it for me. Is there any other business from anyone?

Mr. Rhodes: And nobody can complain when they come up with their recommendations.

Mr. Howard: Right. I too want to wish everyone a Happy Holiday and I know some of you missed this information, but Mr. Fields suffered a heart attack last week. And I did not know that until today.

Mr. Rhodes: Don't do that!

Mr. Fields: I'm better now.

Mr. Howard: He's doing better and he attributes his better health to the first responders and also Mary Washington Hospital. So, I'm glad you're here Mr. Fields and that it didn't take you out for any length of time as well.

Mr. Fields: Thank you; I'm glad to be here.

Mr. Howard: It's kind of remarkable when you think about the procedure you had.

Mr. Fields: It is amazing how quickly they get you back on track and I appreciate everybody's good thoughts.

Mr. Howard: So, in that spirit, I wish everyone a great Holiday Season.

Mr. Rhodes: We have minutes.

Mr. Hirons: Yeah, Mr. Chairman, we have...

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CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

Mr. Howard: Well, I'm still talking... a great Holiday Season and a healthy one and get to spend some time with those you care about the most. And I'm sure it's not the people on this dais, but travel safe and do all the things you need to do. So, we'll move for approval of the minutes. We have three sets of minutes; there's the October 6th... and Stacie, thank you very much, this is a heck of a lot of work that you had to do. Is there any amendments or changes to the minutes for the October 6th? Hearing no make any indication of that, would someone like to move for the minutes of October 6th?

October 6, 2010

Mr. Rhodes: I move for approval of the October 6 minutes.

Mr. Mitchell: Second.

Mr. Howard: Any discussion?

Ms. Kirkman: I'm going to abstain from those and the next set from voting on those.

Mr. Howard: Okay. Is that the time period?

Ms. Kirkman: Yeah.

Mr. Howard: Okay.

Mr. Rhodes: It's hard to remember that far.

Mr. Howard: Yeah, it is. All those in favor of approving the minutes for October 6 signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed say nay? The motion carries 6-0 and one abstention. Are there any changes to the minutes of October 13th from anyone? Hearing none I will entertain a motion for approval.

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October 13, 2010

Mr. Mitchell: Motion for approval.

Mrs. Hazard: Second.

Mr. Howard: Okay, any discussion? Ms. Kirkman indicated she'll be abstaining from this one.

Mr. Fields: I'll be abstaining as well since I was absent.

Mr. Rhodes: So will I Mr. Chairman.

Mr. Howard: Okay, so there's three abstentions. All those in favor of approving the minutes for October 13th signify by saying aye.

Mrs. Hazard: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed say nay? The motion carries 4-0 and three abstentions.

Mr. Rhodes: It's going to be like hockey.

October 20, 2010

Mr. Howard: Any comments on the October 20th minutes from anyone?

Mr. Rhodes: Motion for approval Mr. Chairman.

Mr. Howard: Is there a second?

Ms. Kirkman: I'll second.

Mr. Howard: Okay, any discussion on those minutes? Hearing none I'll call for the vote. All those in favor of approving the October 20th minutes signify by saying aye.

Mr. Rhodes: Aye.

Mrs. Hazard: Aye.

Mr. Fields: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

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Mr. Hiron: Aye.

Mr. Howard: Aye. Opposed say nay? Any abstentions? The motion carries 7-0. I don't know if anyone else wanted to address the Planning Commission? Mr. Rhodes?

Mr. Rhodes: Mr. Chairman, thank you for a moment. I just want to thank the staff for a tremendous year and a year that's been with additional challenge of short staff and all the other dynamics that go with that. They continue to do an amazing job and the advice and support and response we get from them I think is just tremendous. Also I would just like to ask that we all take a little time over this holiday season as we do get to spend it with ones we love to remember those who are elsewhere around this world not being able to spend it with the ones they love. They do so voluntarily, they do so with honor and while they are there by choice and by following the orders to support this nation, they are still not being able to spend it with their families and their loved ones are not able to spend it with them. And so I think we should all take a little time in our reflection to remember them as well. Thank you Mr. Chairman.

Mr. Howard: Thank you. Anyone else? Okay, thanks very much. The meeting is adjourned.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 9:48 p.m.

Gordon Howard, Chairman
Planning Commission